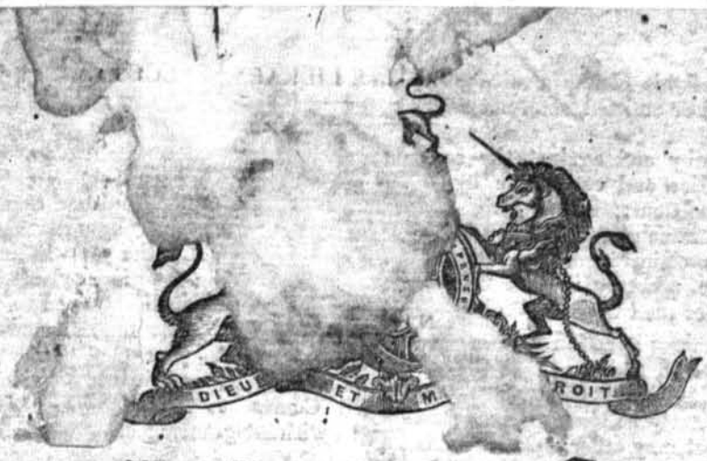

The Calcutta Gazette.

SATURDAY, APRIL 2, 1859.

Legislative Council of India.

THE 26TH MARCH 1859.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 22nd March 1859, and is hereby promulgated for general information :—

ACT No. VIII OF 1859.

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

WHEREAS it is expedient to simplify the Procedure of the Courts of Civil Judicature not established by Royal Charter, It is enacted as follows :—

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts have cognizance of all suits unless specially barred.

1. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay respectively, or by any Act of the Governor General of India in Council.

Unless suits previously heard and determined.

2. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of judgments of the Civil Courts.

3. The judgments of the Civil Courts shall not be subject to revision, otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgments and by the constituted Courts of Appellate Jurisdiction.

No person excepted from jurisdiction by reason of place of birth or of descent.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction of Civil Courts.

5. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if in the case of suits for land or other immoveable property such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell, or personally work for gain, within such limits.

Court in which suit to be instituted.

Transfer of suits.

6. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court and to try such suit itself or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal which may be instituted in any Court subordinate to such Sudder Court shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to

sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may in certain cases order separate trials of such causes of action.

9. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claim for recovery of land & for mesne profits to be deemed distinct causes of action.

10. A claim for the recovery of land and a claim for the mesne profits of such land shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Suits for immoveable property situate within different jurisdictions of the same District.

11. If the suit be for land or other immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immoveable property situate in different Districts.

12. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Sudder Courts.

13. If the Districts within the limits of which the property is situate, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit is brought, is subject; and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction and alleged by the defendant to be within another local jurisdiction.

14. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it shall be shown that the land in dispute has been adjudged by competent authority to belong to an estate village or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Proviso.

Declaratory suit.

15. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

CHAPTER II.

PRELIMINARY RULES.

Parties may appear in person or by recognized agent or by pleader.

16. All applications to any Civil Court, and all appearances of parties in any Civil Court, except where otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Recognized agents.

17. The recognized agents of parties by whom such applications and appearances may be made are—

Persons holding powers of attorney.

1*st*. Persons holding general powers of attorney from parties not within the jurisdiction of the Court authorizing them to make such applications and appearances on behalf of such parties.

Persons carrying on trade or business for absent persons.

2*ndly*. Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons authorized to act for Government.

3*rdly*. Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons specially appointed to prosecute a suit for any Sovereign Prince.

4*thly*. Persons specially appointed by order of Government at the request of any Sovereign Prince, or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Acts required to be done by a party to a suit in person may be done by his recognized agent.

Whenever the personal appearance of a party to a suit is required by this Act such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applica-

Service of notices, &c., on recognized agents.

the service of notices and processes on such ognized agent.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court.

Appointment of ader.

hen so filed, it shall be considered to be in l force until revoked by a writing filed in the urt. All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, rela- e to a suit, and whether the same be for the rsonal attendance of the party or not, shall be sumed to be duly communicated and made own to the party whom the pleader represents, d shall be as effectual for all purposes in relation the suit as if the same had been given to or ved on the party in person, unless the Court all otherwise direct.

Service of notices pleaders.

19. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member his family or any other person to commence, nduct, and manage the suit or the defence, as e case may be, in his stead. The authority shall in writing, and shall be signed by the Officer Soldier in the presence of his Commanding ficer, who shall countersign the same, and it be filed in the Court. When so filed, the ter-signature of the Commanding Officer l be sufficient proof that the authority was ly executed, and that the Officer or Soldier by m it was granted could not obtain a furlough ave of absence for the purpose of prosecuting efending the suit in person.

Officers or Soldiers o cannot obtain ve of absence may thorize any person appear for them.

20. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or de- nd it in person in the same manner as the Officer r Soldier could do if present; or he may appoint pleader of the Court to prosecute or defend the it on behalf of such Officer or Soldier. And all otices or processes relative to the suit which may e served upon any person who shall be so autho- ized as aforesaid by an Officer or Soldier, or upon ny pleader who shall be appointed as aforesaid y such person to act for or on behalf of such Officer r Soldier, shall be as effectual for all purposes lative to the suit as if the same had been served the party in person or on a pleader appointed him.

The person so au- orized may appear rsonally, or appoint leader.

21. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Exemption of cer- in women from rsonal appearance.

22. The Government may at its discretion exempt from personal appear- ance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and y at its discretion withdraw such privilege. names of the persons so exempted (if any) re- siding within the jurisdiction of the Principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

Government may empt certain per- s from personal pearance.

23. Every process required to be issued under this Act, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the cost of such service shall be paid into Court before the process is issued.

Cost of serving process.

Requisite sum to be paid into Court before process issued.

24. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification of plaint, statement, &c.

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

Of the institution of Suits.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Suits to be commenced by plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court and shall contain the following particulars:—

Particulars to be given in the plaint.

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued: and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:

If the suit be for money due on a bond or other written instrument:—Payment of due on *(a bond or other written instrument as the case may be)*, for the sum of , bearing date the day of , and payable on the day of , namely,—

Principal... ... ...
Interest ... ...
Amount paid (if any) ... ...

Balance due.....

If the plaintiff claim exemption from any law of limitation, say—"The plaintiff was an infant *(or as the case may be)* from the day of to the day of ".

If the suit be for the price of goods sold:—Payment of on account of maunds of *(rice, indigo, sugar, or as the case may be)* sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff, [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any).*]

4.—When the claim is for any property other than money, its estimated value.

The following is an instance:

If the suit be for an estate or for a share in an estate paying Revenue to Government:—Possession of the estate or of share in the estate, called , situate in the Zillah of the sudder jumma of which is and estimated value (of which the plaintiff was dispossessed *(or forcibly or fraudulently dispossessed, if the case be so)* on the day of ; or to which the plaintiff became entitled by inheritance from *(or by gift, purchase, or otherwise, as the case may be)* on or about the day of .

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any Corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of ," or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of the Company, shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following or to the like effect:—

Plaint to be subscribed and verified.

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief.

28. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

If plaintiff by reason of absence be unable to subscribe and verify the plaint.

In suits by a Corporation or Company, a Director or Secretary shall verify the plaint.

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Court may reject plaint, if it do not contain the required particulars, &c.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

31. If it appear to the Court that the claim is improperly valued, or being properly valued that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if improperly or insufficiently valued.

32. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint.

Provided that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

Plaint to be rejected, if it appear to the Court that plaintiff has no cause of action or that right of action is barred by lapse of time.

Amendment of plaint.

33. If it appear to the Court that the cause of action did not arise, or that the defendant is not dwelling or personally working for gain within the limits of the jurisdiction of the Court, or, if the claim relate to land or other immoveable property, that such land or other property is not situate within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

34. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within these territories independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs

Security for costs to be furnished by plaintiff at the time of presenting the plaint, if he resides out of the British territories in India.

that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Plaint to be rejected if security be not furnished.

35. If in any stage of a suit it shall appear to the Court that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Security for costs may be required in any stage of suit, if it appear that plaintiff resides out of India.

36. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Appeal from order rejecting plaint.

37. If the suit be for land or other immoveable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

Proceeding in a suit for immoveable property in different jurisdictions.

38. If the Court consider the plaint admissible, the particulars mentioned in Section 26 shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A) hereunto annexed.

When the plaint is admissible, particulars to be entered in a Register.

Form of the Register.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

Written document to be produced in Court when plaint is presented.

And copy filed with plaint.

Original to be marked and returned.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

Document not produced when plaint filed, to be inadmissible in evidence.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document in possession of defendant.

Of Summoning the Defendant.

41. When the plaint has been registered, a summons under the signature of the Judge and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly.

On plaint being registered, summons to issue to defendant.

Summons to be either to settle the issues, or for the final disposal of the case.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff.

If resident within 50 miles.

Or within the local jurisdiction of the Court.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

Form of summons.

44. The summons shall be in the Form contained in the Schedule (B) hereunto annexed or to the like effect.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

46. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit.

Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company.

SERVICE OF SUMMONS ON THE DEFENDANT.

47. The summons shall be delivered to the Nazir or other proper Officer of the Court to be served by himself or one of his subordinates, and such Officer shall be responsible for its due service.

Summons shall be served by Officer of Court.

48. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

How service shall be made.

When there are several defendants.

49. Whenever it may be practicable the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable.

Service on agent sufficient.

50. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Who may be an agent to receive service.

51. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Appointment of such agent to be in writing and to be filed in Court.

52. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

Agent of Government.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

If defendant cannot be found, and has no agent, service may be made on a male member of his family.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

In all cases the person served is to be required to endorse the summons.

But service is sufficient without.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor and other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

If defendant do not dwell in the place mentioned, the summons shall be returned with an endorsement of non-service.

Proviso.

56. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

If served, time and manner of service to be endorsed on summons.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

58. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

When service is substituted, the time for appearance to be fixed.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer it shall be

How the summons is to be served when the defendant is resident within the jurisdiction of another Court and has no agent to accept service.

re-transmitted to the Court from whence it originally issued.

How the summons is to be served when the defendant resides out of the British territories in India and has no agent to accept service.

60. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

Time for appearance.

In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

In suits for immoveable property, service may in certain cases be made on agent in charge of such property.

61. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service may be made on Government Servants.

62. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the Office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on Officers and Soldiers.

Service on a Corporation or Company.

63. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

In what case a letter may be substituted for a summons.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Proof of due service and delivery of summons, letter, &c. transmitted through the post.

66. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII of Act XVII of 1854 *(for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office)*, shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

Of Suits against Government and Public Officers.

In suits against Government, summons to be served on Government Pleader.

Appearance and answer.

67. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

In suits against Government Officers for alleged official acts, summons to be served on them.

68. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time to enable Officer to make a reference to Government.

69. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

70. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If Government undertake defence, Government Pleader to appear and move that a note of his appearance be entered in the Register.

71. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties except that the defendant shall not be liable to arrest before judgment.

If no such motion be made, case to proceed as in a suit between private parties.

But defendant not liable to arrest before judgment.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

Defendant may in certain cases be exempted from personal appearance.

How Persons not before the Court may be made Parties to a Suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

Of Arrest before Judgment.

74. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

In suits for moveable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

76. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court, under the provisions of this Section, shall be open to appeal by the defendant.

If defendant fail to show cause, Court may order him to give bail.

Appeal.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Deposit in lieu of bail.

78. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree, if the Court shall so order.

Defendant to be committed to custody if he cannot give security.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

Compensation to defendant arrested on insufficient grounds.

Proviso as to amount.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

When the defendant is about to leave India, the application to be made to the Court.

OF ATTACHMENT BEFORE JUDGMENT.

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application how to be made.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order.

Withdrawal of attachment.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

How the attachment is to be made.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money.

Appeal.

Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Claims to property attached before judgment, how to be investigated.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed when security is furnished.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of the attachment.

Compensation for attachment applied for on insufficient grounds, &c.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property.

Proviso.

Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Court may stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Special case in which party may be put in immediate possession of land the subject of suit.

91. Whenever lands paying revenue to Government or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the Bengal Code *(to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars &c.)* form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or the rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the

lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

Of Injunctions.

Cases in which an injunction to stay waste &c. may be granted.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet.

Or in which a receiver or manager may be appointed.

And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper.

When the Collector may be appointed receiver or manager.

If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such receiver.

In suits to restrain breach of contract &c.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction to restrain the defendant from the repetition, or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always that any order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Injunction to restrain repetition or continuance of breach.

Proviso.

Appeal.

94. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting injunction, Court may direct reasonable notice to be given to the opposite party.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of injunction.

96. If it shall appear to the Court that the injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction.

Proviso.

Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Of the Withdrawal and Adjustment of Suits.

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or compromise.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith.

Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted.

On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp duty paid on the plaint if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been

examined. Provided however that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

Proviso.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

Suit not to abate by death in certain cases.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survives.

100. If there be two or more plaintiffs or defendants and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs, where the cause of action accrues to the survivor and the representative of the deceased.

101. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

102. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable cost which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants or of a sole or sole surviving defendant.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

Marriage of a female plaintiff or defendant not to abate the suit.

105. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the Assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the Assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Of Notices to produce, and how they are to be served.

Two notices in writing to be delivered to the proper Officer of the Court.

107. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required, under the pro-

visions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party.

Service of notices and other judicial process how to be made on a party who has not appointed a pleader to act for him.

108. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

OF THE APPEARANCE OF THE PARTIES, AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear either in person or by a pleader when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the rules for the limitation of actions; or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

If plaintiff only appear, Court may proceed *ex parte* if due service of summons be proved.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If defendant appear on day of adjourned hearing, and assign good cause for his previous non-appearance, he may be heard.

If plaintiff only appear and due service of summons be not proved, Court may order issue of second summons.

112. If the plaintiff shall appear in person or by a pleader and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and service of summons be proved, but the service was not in due time, Court may adjourn hearing and direct notice to be given to defendant.

113. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court and may direct notice of such day to be given to the defendant.

If defendant only appear, Court to pass judgment by default against plaintiff, unless defendant admit the claim.

114. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission.

No fresh suit after such judgment.

When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

Consequence of non-appearance of one or more of several plaintiffs.

116. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several defendants.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause shown, of any party to a suit summoned or ordered to appear in person.

118. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

119. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No appeal from judgments passed *ex parte* or by default.

When and how judgment *ex parte* against a defendant may be set aside.

When and how judgment by default against a plaintiff may be set aside.

No judgment to be set aside, without notice to opposite party.

Order for setting aside judgment shall be final.

In appealable cases, an appeal from order of rejection.

Proviso.

Of Written Statements.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered by the parties at the first hearing of the suit.

Written statements to be on stamp paper.

121. If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

Particulars of set-off to be given in a written statement.

Abandonment of excess of set-off over claim.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

No written statement to be received after first hearing unless called for by the Court.

Court may at any time call for a written statement.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

How written statements are to be framed.

Written statements to be subscribed and verified.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative or unnecessarily prolix, or that it contains matter irrevelant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Court may reject a written statement which is argumentative, prolix, or irrelevant.

Of the Examination of the Parties.

Oral examination of party &c.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oath.

Substance of the examination to be written.

Consequence of refusal of a party to answer.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer, if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Of the Production of Documents.

Documentary evidence to be produced at first hearing.

128. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court.

Rejection of exhibits.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Documents insufficiently stamped may be received on payment of deficient duty and penalty.

130. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under any Regulation or Act for the time being in force, and it shall appear to the Court that the deed, instrument, or writing, although written on stamp paper, does not bear a sufficient stamp, the Court shall nevertheless receive the same in evidence, saving all just exceptions on other grounds, if the party producing it or requiring its production shall pay into Court the deficiency of the stamp duty and a penalty equal to ten times the amount of the deficiency. Provided that, if it shall appear to the Court that there are reasonable grounds for believing that the deed, instrument, or writing was not properly stamped with the intention of evading the stamp laws, the Court may reject the same.

Proviso.

Account of monies so received to be kept.

131. An entry of the fact of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of such deed, instrument, or writing under the signature of the Judge of the Court. The Court shall at the end of every month make a return to the Collector of Revenue of the District of the monies (if any) which it has so received by way of duty or penalty, distinguishing between such monies, and stating the number and title of the suit, and the name of the party from whom such monies were received, and the date (if any) and description of the document, for the purpose of identifying the same; and the Court shall pay over the said monies to the Collector of Revenue, or to such person as he may appoint to receive the same; and the Collector of Revenue or other proper authority shall, upon production of the deed, instrument, or writing, with the endorsement hereinbefore mentioned, cause such additional stamp as may be necessary to be affixed to such deed, instrument, or writing in respect of the sums so paid as aforesaid.

Monthly return to be made to Collector.

Admitted exhibits to be marked and filed.

132. When an exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Proviso.

No stamp duty in respect of the production or filing of exhibits.

133. No stamp duty shall be leviable in respect of the production or filing of any exhibit, anything contained in any Regulation or Act notwithstanding.

Rejected exhibits to be marked and returned.

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who

produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

Unless detained by the Court.

135. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

136. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Exhibit may be returned before the time limited for special reasons.

Certified copy to be kept.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Receipt to be given for returned exhibit.

138. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which would be contrary to good policy) and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Court may send for papers from its own records or from other public Offices or Courts.

Except State papers.

Of the Settlement of Issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

Framing of issues.

140. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

Court may examine witnesses or documents before framing the issues.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues.

Additional issues.

Of Issues by Agreement of Parties.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

143. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Court, if satisfied that the agreement was executed *bonâ fide*, may decree accordingly.

When the Suit may be disposed of at the First Hearing.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are not at issue on any question of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may

If the parties are at issue on questions of law or fact.

be sufficient for the decision of the suit, the Court after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require. Provided that if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

Court if satisfied may determine the issues and give judgment.

Proviso where summons is for final disposal.

Of Adjournments.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

Court may grant time, or adjourn to a future day.

Proviso.

147. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How Court is to proceed if the parties fail to appear on the day fixed.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Court to proceed if either party fail to produce proofs or witnesses.

Of summoning Witnesses.

149. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

Application for summons.

150. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding.

No stamp duty on application for summons.

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Expenses of witnesses to be paid before issue of summons.

Scale of expenses.

Tender of expenses to witness.

If sum be not sufficient.

Expenses if witness is detained.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place, and purpose of attendance to be specified in summons.

153. Any person whether a party to a suit or not may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce a document.

Service of Summons on a Witness.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How and when the summons shall be served.

155. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult male member of his family residing with him.

Service to be on the witness, or a male member of his family.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

When the summons cannot be served, it is to be returned to the Court.

157. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when, and the manner in which it was served.

Time and manner of service to be endorsed on the summons.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

How a summons on a witness who resides in another jurisdiction is to be served.

159. If the summons for the attendance of any person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

When a witness absconds, his property may be attached.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

How the Court is to proceed with the witness on his appearance.

OF THE EXAMINATION OF PARTIES AS WITNESSES.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued.

Special application to be made for the examination of a party as a witness.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

The Court may first issue a notice to show cause.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

Court shall receive a written declaration in support of the cause shown.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

If no sufficient cause be shown, summons to issue.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may of its own accord in any stage of the suit cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court, or

Court may of its own accord at any time summon a witness.

may cause such party to be examined in such other manner as the Court may direct.

ATTENDANCE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

Persons summoned to give evidence must attend.

167. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by a witness.

168. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155, shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to give evidence.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence though not summoned.

171. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witnesses to be examined at the hearing of the suit in open Court.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by, or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge.

In what form evidence shall be taken in appealable cases.

In what case deposition to be interpreted.

If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given.

When evidence may be taken in English.

Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his pleader shall require it.

Objection made to questions.

If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination.

Memorandum of substance of the evidence to be made by Judge as each witness is examined.

In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record.

In what form evidence shall be taken in cases not appealable.

In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall

form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

If Judge be unable to make a memorandum of the evidence, reason of inability to be recorded.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

A witness may for sufficient cause be examined immediately.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Witness to be examined upon oath or affirmation, or according to the law for the time being in force.

Of Commissions to examine absent Witnesses and make Local Enquiries.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

Cases in which Court may issue a Commission to examine witnesses.

When the witness resides within the Court's jurisdiction.

When the witness resides beyond the Court's jurisdiction, and not within the Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is within the local jurisdiction of the Supreme Court.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When the witness is not within the jurisdiction of the Sudder Court or the Supreme Court, but within the British territories or the territories of any Native Prince or State in alliance with the British Government.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

When the witness is beyond the said territories and not within the territories of any Native Prince or State in alliance with the British Government.

179. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined there-under, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission, in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the

Commission to be returned with the depositions of the witnesses.

When depositions may be read in evidence.

Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

Commission for local investigations.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or, if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

The report and depositions to be taken as evidence in the suit, but the Commissioner may be examined in person.

A Commissioner may be appointed to investigate and adjust accounts.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

In cases of local investigation or investigation into accounts, expenses of Commission to be paid into Court, before issue thereof.

182. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

Of Judgment and Decree.

When judgment is to be pronounced.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment to be written in the vernacular language of the Judge.

Proviso.

184. The judgment shall be written in the vernacular language of the Judge. Provided that if the vernacular language of the Judge be not English and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment what to contain.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translation shall also be signed by the Judge.

Judgment to be translated.

Court to state its decision on each issue.

Proviso.

186. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Judgment to direct by whom costs are to be paid.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners either in taking evidence or in local investigations or in investigations into accounts.

What is included under the denomination of costs.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree.

190. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for the recovery of a portion of immoveable property.

191. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for the delivery of moveable property.

192. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

Decree for damages for breach of contract.

193. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest to be paid on the principal sum adjudged from the date of suit to the date of payment at such rate as the Court may think proper.

In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

194. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

Payment by instalments.

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

If set-off be allowed.

Effect of decree.

196. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decree-holder with interest thereupon at such rate as the Court may think proper.

When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.

197. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper.

Certified copies of the decree and judgment to be furnished.

CHAPTER IV.

Execution of Decrees.

199. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for immoveable property.

200. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for moveable property, performance of contract, or alternative.

201. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder

Decree for money.

Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument, shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decree against representatives of deceased persons.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against sureties.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

What property liable to attachment and sale in execution of a decree.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Payment of monies under decrees &c.

206. All monies payable under a decree shall be paid into the Court, whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct.

Adjustment of decree to be made through the Court.

No adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Application for Execution.

Application for execution how to be made.

207. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred from original decree-holder to another person.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

If the person against whom a decree is made shall die before execution, application may be made against his legal representative or estate.

210. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative of the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

Decree how to be executed against legal representative.

211. If the decree be ordered to be executed against the legal representative it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief

granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars when the application is for an attachment of immoveable property.

213. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of moveable property may be general, or may be accompanied with an inventory of the property to be attached.

214. Where the application is for an attachment of the defendant's moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

Procedure on receiving the application.

215. The Court, on receiving any application for execution of a decree, containing the particulars above mentioned, or such of them as may be applicable to the case, shall cause the same to be compared with the original decree contained in the record of the suit, and if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made in the Register of the suit. If the particulars shall not be found to correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In certain special cases, notice to show cause why the decree should not be executed shall be issued.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Proviso.

Procedure after issue of notice.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

218. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries as to the property to be attached.

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Rules applicable to the summoning and examination of parties and witnesses after judgment.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

ISSUE OF THE WARRANT.

Warrant when to issue.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper Officer

of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper Officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Of the execution of Decrees for Immoveable Property.

How immoveable property is to be delivered when in the occupancy of a defendant or of some person under him.

223. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How it is to be delivered when in the occupancy of ryot.

224. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of share how to be made.

225. If the decree be for the division of an estate or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government.

Obstruction to execution of decree for immoveable property.

226. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint and shall summon the party against whom the complaint is made to answer the same.

Obstruction by defendant.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

How defendant may be dealt with, if he persists in obstructing the complainant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

Obstruction by a *bonâ fide* claimant other than the defendant.

229. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases if person dispossessed of immoveable property dispute the right of decree-holder to be put into possession of such property.

230. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

231. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject to appeal

under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

Of the Execution of Decrees for Money by Attachment of Property.

Attachment of property in execution of decree for money, to be as follows.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of moveable property in possession of defendant, by seizure.

233. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other Officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by prohibitory order of moveable property, to which defendant is entitled subject to a lien.

234. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment of immoveable property by prohibitory order.

235. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of debts not being negotiable instruments, and of shares in public Companies &c., by prohibitory order.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment until such further order.

Attachment of money or securities in deposit in a Court of Justice or with a Government Officer, by notice.

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

Attachment of negotiable instruments by seizure.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other Officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

When the attachment is by prohibitory order, how the order is to be made known.

239. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the Office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper Officer of the Company or Corporation.

Any private alienation of property after attachment to be null and void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment by a debtor who has been prohibited from making payment to his creditor.

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court and such payment shall have the same effect as payment to the party entitled to receive the debt.

The Court may direct money or bank-notes to be paid to the plaintiff;

242. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall con-

sist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

Or other attached property to be sold, and proceeds to be paid to him.

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this Section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

Where the property attached consists of debts or immoveable property, a manager may be appointed.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

Manager to render accounts.

244. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

On security being given.

245. If the amount decreed with costs and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of the decree.

Of Claims to Attached Property.

246. In the event of any claim being preferred to, or objection offered against the sale of lands or any other immoveable or moveable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

How claims and objections to sale of attached property are to be investigated.

247. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Claims and objections should be preferred at the earliest opportunity.

Of Sales in execution of Decrees.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint.

Sales to be by public auction.

and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Exception as to negotiable securities and shares in public Companies.

Sale by Collector of lands paying revenue to Government.

249. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Notification of sales by public auction.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

The process for attachment and sale may in certain cases be issued simultaneously.

251. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Mode of payment on sale of moveable property.

252. No irregularity in the sale of moveable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Irregularity not to vitiate sale of moveable property, but any person injured may recover damages by suit.

253. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Deposit by purchaser in case of sale of immoveable property.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

When full amount of purchase money to be made good.

Procedure on default.

Defaulting purchaser answerable for loss by re-sale.

255. Every re-sale of immoveable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Notification on re-sale of immoveable property.

256. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Confirmation of sale.

257. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

When the order to set aside a sale shall be open to appeal.

shall be precluded from bringing a suit for establishing his claim.

If the sale be set aside, price to be returned to purchaser.

258. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

Certificate to be granted to the purchasers of land.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to state the name of actual purchaser.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in the possession of defendant.

261. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien.

262. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendants, &c.

263. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of ryots, &c.

264. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities of which actual seizure has been made.

266. Where the property sold shall consist of negotiable securites of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"A. B. by C. D. Judge of the Court of *(or as the case may be)*; in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228 relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given

shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of property attached.

270. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

271. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when any property is sold subject to a mortgage, the mortgagee shall not beentitled to share in any surplusarising from such sale.

Proviso where property is sold subject to a mortgage.

Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose if such other decree be a decree of that Court, or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Of Arrest in execution of Decrees for Money.

On what grounds, application for discharge may be made.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner herein before prescribed for subscribing and verifying plaints.

Form of application.

Verification.

Procedure on application.

274. Upon such application being made, the Court shall examine the applicant in the presence of the plaintiff or his pleader as to his then circumstances, and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant making the necessary deposit for paying the fees of such Officer; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or surties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Defendant liable to be again arrested if proved guilty of fraudulent concealment of property, &c.

275. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the execution of Decrees by Imprisonment.

Subsistence-money of a defendant in gaol how fixed and furnished.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above direct-

ed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Imprisonment not to be longer than 2 years.

6 months if decree for money not exceeding 500 Rs.

3 months if not exceeding 50 Rs.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence-money to be added to amount of decree.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application may be made for discharge on a surrender of the whole of the debtor's property.

281. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Procedure on such application.

Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

and he may be further dealt with criminally.

282. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

Though the defendant be discharged, his property is liable for the decree.

283. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, shall be determined by order of the Court executing the decree and not by separate suit; and the order passed by the Court shall be open to appeal.

How questions regarding amount of mesne profits and interest, and sums paid in satisfaction of decree, are to be determined.

Of Execution of a Decree out of the Jurisdiction of the Court by which it was passed.

284. A decree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

How a decree of one Court may be executed within the jurisdiction of another Court.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed, to the Court by which the applicant may wish the decree to be executed.

Application for such execution.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Copy of decree and order for execution to be transmitted.

287. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Decree or order transmitted, to be executed as that of the Court.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; provided that such Court shall have no power to inquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution or order restitution of property or discharge of defendant.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from or impose such conditions upon the defendant as it may deem reasonable.

Before staying execution, Court may require security from, or impose conditions upon defendant.

292. Any order of the Court in which the decree was passed or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

293. No discharge of a defendant under the provisions of Section 290 shall prevent him from being retaken in execution of the decree.

Liability of defendant discharged, to be re-taken.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

What appeal from orders for execution under this Act.

295. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command and delivered, according to the exigency of the warrant, to the Civil Officer charged with the execution thereof.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

296. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money which may be ordered by a Civil Court in any Civil proceeding.

Rules contained in this Chapter to be applicable to all Civil process.

CHAPTER V.

Of Pauper Suits.

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

Suits may be brought *in formâ pauperis*.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

What suits excepted.

299. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

300. The petition shall contain the particulars required by Section 26 of this Act, in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Petition what to contain.

301. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if

How to be presented.

the petitioner be a female, who, according to the custom and manners of the country ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of petitioner, if a female, how to be taken.

302. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

Petition to be rejected if not in form.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

If in form, Court how to proceed.

If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Court may reject the application.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

Notice to opposite party.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

After a summary enquiry, the Court to pass a final order.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Court may direct a local enquiry.

308. If the application of the petitioner be granted, it shall be registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

Course of proceeding to be observed, if application be admitted.

309. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

On the decision of the suit, costs how to be calculated.

310. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

311. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

No appeals from orders under this Chapter.

CHAPTER VI.

Reference to Arbitration.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Reference to arbitration on application of the parties.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Application how to be made.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

Order of reference.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

When the reference is to two or more, the order shall provide for difference of opinion.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Powers of arbitrators.

318. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

Extension of time for making award.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

In case of death, incapacity, or refusal to act of arbitrators or umpire, Court may appoint others in stead.

320. When an award in a suit shall be made either by the arbitrator or arbitrators, or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Award how to be submitted to Court.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Arbitrator may state special case.

322. The Court may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Court may, on application, modify or correct an award in certain cases.

And make order respecting the costs of arbitration.

323. In any of the following cases the Court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

In what cases Court may remit the award or any of the matters referred to arbitration, for re-consideration.

324. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given decree shall follow and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Judgment to be according to the award.

326. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Agreement of parties to refer to arbitration may be filed in the Court.

Provisions of this Chapter applicable.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may within six months from the date of the award make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

Enforcement of such award.

CHAPTER VII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How questions may be raised for the decision of a Civil Court by any Persons interested.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement, which shall be subject to the same stamp duty as prescribed for plaints in suits, that upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing, or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Agreement to be filed and numbered as a suit.

330. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Parties to be subject to the Court's jurisdiction.

331. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try, or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Hearing and disposal of the case.

CHAPTER VIII.

Of Appeals.

332. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court.

Appeal to lie from all decrees except when expressly prohibited.

Appeal to Sudder Court to be heard by three or more Judges.

How Appeals are to be preferred.

Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time.

333. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

What the memorandum is to contain.

334. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

Form of memorandum.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff.
(Name, &c. as in Register.) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the Sudder Court at [or Zillah Court at be], against the decree of as the case may in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree if it proceed on a ground common to all.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

Of staying and executing Decrees under Appeal.

Execution of decree not to be stayed by appeal; but if sufficient cause be shown, execution may be stayed.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

Court, before making order to stay execution, shall require security for due performance of decree or order of Appellate Court.

Court making an order for execution of a decree against which an appeal has been preferred, may require security for restitution of property, &c.

339. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court.

No such security to be required from Government or any Public Officer.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public Officer.

Of procedure in Appeals from Decrees.

How the appeal is to be entered.

341. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper Officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Form of the Register.

Appellate Court may, at its discretion, require security for costs from appellant.

342. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

Proviso.

Appellate Court to send intimation to Lower Court of appeal being registered.

343. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in

Lower Court to transmit papers to Appellate Court.

the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice and shall be deposited in the Lower Court..

Either party may give notice of exhibits of which he requires copies to be made and deposited in the Lower Court.

344. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Day for hearing the appeal, how to be fixed.

345. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Publication and service of notice of the day fixed for hearing the appeal.

Form of notice.

346. If on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Consequence of non-appearance.

347. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court which he might have taken if he had preferred a separate appeal from such decision.

Respondent may object to decision of Lower Court in the same manner as if he had preferred a separate appeal.

349. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

The Appellate Court how to give judgment.

350. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reversed or modified nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

No decision to be reversed for irregularity.

351. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register and proceed to investigate the merits of the case, and pass a decree therein.

When a case may be remanded by Appellate Court.

352. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

Power to remand limited as above.

353. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

When the evidence is sufficient, the Appellate Court must determine the case though the Lower Court has decided on other grounds.

354. If the Lower Court shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

Trial of issues by Lower Court on reference from Appellate Court.

355. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower

When the Appellate Court may call for fresh evidence.

Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not; provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

How additional evidence is to be taken.

356. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court or to empower any person to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

Points to be defined.

357. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

Powers of Appellate Court.

358. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the suit, examining the parties or their pleaders, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

Judgment of the Appellate Court. In what language it is to be written.

359. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writing, which shall form part of the record.

Dissent to be recorded.

What the decree is to contain.

360. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy of the decree to be transmitted to the Lower Court.

361. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

How to be executed.

362. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Appeals from Orders.

No appeal from order passed before decree, but error or defect therein may be set forth as an objection if the decree be appealed against.

363. No appeal shall lie from any order passed in the course of a suit and relating thereto prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order passed after decree and relating to the execution thereof except as provided.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

365. All orders as to fines or the levying thereof or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

Of Appeals in Forma Pauperis.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from

such decision subject to all the rules contained in the last preceding Chapter and in Chapter V in so far as they are applicable.

Application to whom and when to be presented.

368. The application to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

369. The application shall contain the particulars required to be set forth in the memorandum of appeal and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any moveable or immoveable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

Procedure.

370. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

Effect of order by Appellate Court.

371. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

CHAPTER X.

Of Special Appeals.

Special appeals allowed on what grounds.

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

Application to be presented to the Sudder Court.

373. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX in respect to appeals from decrees *in formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

Application how to be dealt with.

375. If the application be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. hereunto annexed and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals so far as the same may be applicable.

CHAPTER XI.

Review of Judgment.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree.

On discovery of new evidence &c.

Within what time and on what paper the application should be made.

377. The application shall be made within ninety days from the date of the decree unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for

not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

The order of the Court for granting or refusing the review is final.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Proviso.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

379. If the Court to which the application for a review of its judgment has been presented by a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application for a review being granted.

380. When an application for a review of judgment is granted, a note thereof shall be made in the Register of Suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

CHAPTER XII.

MISCELLANEOUS.

Sudder Court empowered to make rules of practice &c., for the Subordinate Civil Courts.

381. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Subordinate Civil Courts, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Provided such rules are not inconsistent with this or any other law.

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts.

382. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of Village Moonsiffs and Village or District Punchayets in Madras—

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure

of Military Courts of Request—

of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

of single Officers appointed to try small suits in Madras and Bombay.

Troops of those

and of Military Punchayets in Madras.

Saving of certain special or local Laws.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII. 1836 of the Bombay Code *(for vesting certain Jagheerdars, Surinjameedars, and Enamdars with the power of deciding suits within the boundaries of their respective estates)* and Act XV of 1840 *(for extending Regulations XV. 1827 and XIII. 1830 of the Bombay Code to the Agents of Foreign Sovereigns)*, or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code *(for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack)*, or cases of the nature defined in Regulation XXIX. 1827 *(for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh)*, Regulation VII. 1830 *(for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country)*, Regulations I and XVI. 1831 of the Bombay Code *(for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned)*, Act XIX of 1835 *(relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan)*, and Act XIII of 1842 *(to enable the holders of revenue which has been alienated to them by the state to collect that revenue within the Presidency of Bombay)*, except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations until extended thereto.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the *Gazette*.

Interpretation.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that to is say)—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a District for the purposes of this Act; and the words "District Court" shall mean such Court.

"District Court."

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.

Commencement of operation of Act.

387. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859 and in the Presidencies of Madras and Bombay from the 1st day of January 1860 or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if

Pending suits.

in any suit pending at the time when this Act shall come into operation it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Where Act comes into operation, procedure of Civil Courts to be regulated by it only.

388. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall be regulated by this Act, and except as otherwise provided by this Act, by no other Law or Regulation.

SCHEDULE A. referred to in the foregoing scheme of Procedure.

Court of the ——— holden at ———

Register of Civil Suits in the year 18 .

Date of presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.		Judgment.			Appeal.		Execution.					Return of Execution.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of Order.	Against whom.	For what, and Amount if Money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B.

In the Court of
No. of Suit.
at

Plaintiff.
Defendant.

(Name, description, and address.)

Whereas [*here enter the name, description, and address of the Plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person, state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C. to the foregoing scheme of Procedure.

COURT at

REGISTER OF APPEALS from DECREES in the year 18

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D. to the foregoing scheme of Procedure.

SUDDER COURT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

W. MORGAN,
Clerk of the Council.

Home Department.

No. 686.

Fort William, the 31st March 1859.

Notifications.—The following Members of the Civil Service reported their departure for England by the Steam-ship *Nemesis*, which Vessel was left by the Pilot at Sea on the 25th instant:—

Mr. Octavius Toogood.
" G. H. M. Ricketts.
" H. R. Madocks.
" R. P. Jenkins.
" S. N. Martin.

No. 687.

His Excellency the Governor General in Council has been pleased to permit Senior Lieutenant H. W. Etheridge, I. N., to proceed to Sea on Medical Certificate, for one year, from the 28th instant, under the old Furlough Regulations.

No. 688.

The 1st April 1859.

His Excellency the Governor General in Council is pleased to permit the Hon'ble F. J. Halliday to resign the Civil Service from the 1st May next.

No. 691.

The following Rules for the transmission of Service Messages by Electric Telegraph, passed by His Excellency the Governor General of India in Council, on the 1st April 1859, in supersession of all previous Rules on the subject, are published for general information:—

I. From the 1st May 1859, all messages sent on service by public functionaries of all classes, must be paid for in cash previous to despatch.

II. The rates payable for the number of words and distances will be the same in all respects as those charged to private individuals.

III. Repetition price will be charged whenever the message contains numbers or refers to financial matters.

IV. The privilege of precedence in despatch for all Service Messages will cease, except in cases of pressing public emergency and importance, when priority of despatch may be claimed by the sender. The Superintendent will bring to the notice of the Government of India, any case of a Public Officer insisting in priority of despatch without reason.

V. One exception only will be made to the Rule of cash payments. Officers in Command of Troops employed in operations in the Field may send their messages without payment. But this privilege does not extend to the case of Troops marching to join, or to moveable columns while halted, and with funds available for contingent expenses.

VI. The sums paid by public functionaries for the despatch of messages will be recovered from Government by the sender, by contingent bills countersigned as usual.

VII. The above Rules do not apply to the Hooghly River Lines and Offices, which are employed for special purposes.

VIII. The Governors of Pondicherry and Goa shall also continue to enjoy the privilege of free transmission of messages conceded to their Governments.

CECIL BEADON,
Secy. to the Govt. of India.

Foreign Department.

No. 1403.

Fort William, the 30th March 1859.

His Excellency the Governor General in Council is pleased to grant to Captain W. R. Shakespear, First Assistant to the Agent to the Governor General for Central India, leave of absence for one month, from the date he may avail himself of the same, to proceed to Bombay, to appear before a Medical Committee, preparatory to applying for Furlough on Medical Certificate to England.

No. 1404.

the 31st March 1859.

Captain J. J. Hamilton, Assistant Commissioner, West Berar, has obtained privilege leave of absence for three months, from the date on which he may avail himself of it.

No. 1405.

His Excellency the Governor General in Council is pleased to grant to Major R. H. Keatinge, Officiating Political Assistant in Nimar and Political Agent in Western Malwa, the usual leave from the 16th instant, the date on which he made over charge of the Nimar Agency Office to Mr. S. J. Naher, Deputy Collector in Nimar, to proceed to Bombay, preparatory to applying for further leave to England on Medical Certificate.

No. 1406.

Major R. R. W. Ellis, Political Assistant for Bundlecund, has obtained leave of absence for eight weeks, from the date on which he may avail himself of the same, preparatory to applying for further leave to Europe on Medical Certificate.

No. 1407.

The Hon'ble Sir John Lawrence, Bart., G. C. B., Lieutenant-Governor of the Punjab, has reported his departure for Europe on the Steamer *Benares*, which left Bombay on the 12th instant.

No. 1408.

The Governor General in Council is pleased to appoint Assistant Surgeon C. Mathias, of the Meenah Corps at Deolee, to the Medical charge of the Ulwar Political Agency.

Doctor Mathias joined his appointment on the 13th ultimo.

No. 1409.

Assistant Surgeon R. Dempster officiated as Deputy Commissioner of Mergui, from 2nd August to 1st October 1858.

No. 1410.

Notification.—By order of His Excellency the Governor General of India in Council the following Despatch, and its enclosures, from H. B. M's Consul at Batavia, dated the 4th instant, relative to the blockade by the Netherland's Forces of the

Coasts of Boni (Celebes) are published for general information :—

(Copies.)

No. 23.

British Consulate,
Batavia, 4th March 1859.

To

His Excellency the Right Hon'ble
Viscount Canning,
Governor General of British India, Calcutta.

My Lord,

I have the honor to enclose translated copy of a communication received by me, from the Government of Netherlands India, relative to the blockade by the Netherlands Forces, of the Coasts of *Boni* (Celebes), and to request that your Lordship will cause the same to be published.

I have, &c.,
(Signed) Alexander Fraser,
H. B. M's. Consul.

Translated Copy.

Batavia, 28th February 1859.

To

The Consul for Great Britain,
Batavia.

No. 442 & Enclosure 1.

In the name of His Excellency the Governor General, I have the honor to inform you that the Coasts of Boni (Celebes) have been put in a state of active blockade, since the 15th of February 1859, and to hand you a copy of the declaration referring thereto of the Major General Commander-in-Chief of the Sea and Land Forces, fitted out to obtain by force of Arms redress of grievances from the Queen of Boni.

I am desired at the same time to request that you will give notice of this blockade to the British Government in India and dependencies and also to the British Authorities in China.

(Signed) L. L. W. deWall,
1st Secretary of Government.

A True Translation,
(Signed) Alexander Fraser,
H. B. M's. Consul.

Translated Copy.

I, the undersigned, Major General Commander-in-Chief of the Sea and Land Forces fitted out to obtain from the Queen of Boni by force of Arms redress of grievances due to the Government of Netherlands India, and in terms of the power conferred upon me

Declare,

Beginning with the 15th February 1859, the Coasts of the Kingdom of Boni (Celebes) in state of active blockade to be maintained by the Naval and Military power under my Command.

Any Vessel attempting to violate the blockade shall be treated according to the International Laws and Treaties in force with neutral powers.

Bay of Badjoa, 10th February 1859.
(Signed) Steinmetz.

For a true Copy,
(Signed) Nederburgh,
Secretary to the Government.

(A True Translation,)
(Signed) Alexander Fraser,
H. B. M's. Consul.

(True Copies)
R. Simson,
Under-Secy. to the Govt. of India.

Financial Department.

No. 21.

Fort William, the 31st March 1859.

Notifications.—The Right Hon'ble the Governor General in Council is pleased to appoint Mr. J. Christie, Second Assistant Accountant General at Bombay, to officiate as First Assistant Accountant General at Bombay

Mr. D. B. Hodge to officiate as Second Assistant Accountant General at Bombay.

The above arrangement to take effect from the departure on Furlough of Mr. H. P. St. G. Tucker, until the return of Mr. Lodwick, First Assistant Accountant General, from Europe.

No. 22.

His Excellency the Governor General in Council is pleased to allow Mr. C. Grant, Accountant, North-Western Provinces, the usual leave of absence from the date on which he may make over charge of his Office, preparatory to retiring from the Service.

No. 23.

Appointment.—Mr. F. Lushington, Civil Auditor at Madras, to officiate as Accountant, North-Western Provinces.

By Order of His Excellency the Governor General of India in Council,

C. Hugh Lushington,
Secretary to the Government of India.

Military Department.

Fort William, 29th March 1859.

No. 425 *of* 1859.—Second Captain James Edward Cordner, of the Regiment of Artillery, is allowed leave of absence from the 15th instant to the 14th June 1859, to visit Bombay, with permission to proceed thence to Europe on Furlough, on private affairs, for two years, under the new Regulations.

No. 426 *of* 1859.—The leave of absence to visit Bombay, preparatory to applying for Sick leave to Europe, granted on the 5th instant by the Commissioner of Nagpore to Assistant Surgeon S. J. Wyndowe, attached to the Nagpore Irregular Cavalry, is confirmed.

No. 427 *of* 1859.—Subadar Alif Khan, of the 2nd Regiment Native Infantry, (Grenadiers), is dismissed from the Service from this date.

No. 428 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on Furlough, on private affairs :—

Lieutenant Joseph Hind, of the 26th Regiment Native Infantry ...	For three years, under the old Regulations.

No. 429 *of* 1859.—The following Notification, from the Foreign Department is published in General Orders :—

No. 1233.—*The 29th March* 1859.—His Excellency the Governor General in Council is pleased to appoint Captain G. Delane to officiate as Superintendent of the Ex-Ameers of Sinde and the Sikh Sirdars, as also of the affairs of the Mysore Princes, with effect from the 22nd instant, the date on which he received charge of the Offices from Major C. V. Bowie.

No. 430 *of* 1859.—The following Orders by the Hon'ble the Lieutenant-Governor of Bengal are published in General Orders :

The 22nd March 1859.—Mr. R. Pringle to be Civil Assistant Surgeon of Cuttack.

Mr. B. Kendall to be Civil Assistant Surgeon of Pooree.

No. 431 *of* 1859.—The following Orders by the Government, North-Western Provinces, are published in General Orders :—

No. 819.—*The 26th March* 1859.—The following Extract from Station Orders by Lieutenant Colonel G. W. P. Bingham, C. B., dated Agra, 4th February 1859, is republished :

"Lieutenant W. Smith, Cantonment Joint Magistrate, is permitted to proceed towards the Presidency from the 3rd instant, in anticipation of the general leave for which he has applied on Medical Certificate.

"The Officer Commanding at Agra is pleased to appoint Brevet Major J. Morrieson, late 30th Regiment Native Infantry, to officiate as Cantonment Joint Magistrate, from the 1st instant, the date on which he received charge of the office from Lieutenant W. Smith, subject to confirmation."

No. 124.—*The 25th March* 1859.—Local Cornet Gibson, Officiating Adjutant Moradabad District Police to be Adjutant of the Military Police, in the Baitool District, *vice* Mr. Christopher Borthwick, whose appointment has been cancelled.

Fort William, 30th March 1859.

No. 432 *of* 1859.—Assistant Surgeon John White, M. D., of the Medical Department, is allowed leave of absence, from the 15th March to the 15th June 1859, to visit Bombay, with permission to proceed thence to Europe on Furlough, on private affairs for two years, under the new Regulations.

No. 433 *of* 1859.—His Excellency the Governor General in Council is pleased to make the following appointment :—

Stud Department.

Veterinary Surgeon J. S. Woods, now Officiating, to the Veterinary charge of the Seharunpore Stud Depot, *vice* Veterinary Surgeon Henderson, deceased.

No. 434 *of* 1859—The leave of absence to visit Bombay, preparatory to proceeding to Europe on Sick Certificate, granted to Surgeon T. R. Strover, of the Medical Department, in Government General Order No. 224 of the 21st February 1859, is to be held to have effect from the 1st June next, or from such date as he may avail himself of it, instead of from the date formerly published.

Fort William, 1st April 1859.

No. 435 *of* 1859.—Lieutenant R. Pope, of the Madras Artillery, is allowed leave of absence from the 15th February 1859, to visit Bombay, preparatory to applying for leave of absence on Sick Certificate to Europe, under the old Regulations.

No. 436 *of* 1859.—The under-mentioned Officers are permitted to proceed to Europe, on leave of absence, on Sick Certificate :—

Lieutenant John Richard Pearson, of the Regiment of Artillery, Deputy Commissary of Ordnance	For fifteen months, under the new Regulations.
Surgeon George Saunders, of the Medical Department.	For eighteen months, under the new Regulations.

No. 437 *of* 1859.—His Excellency the Governor General in Council is pleased to admit the undermentioned Native Officers of the 1st Belooch Extra Battalion to the 3rd Class of the Order of Merit, in consideration of their conspicuous gallantry and exemplary conduct in several instances during the late disturbances :—

Subadar Khyroolla Khan.
" Hadjee Khan.
" Zurreef Khan.
" Pyand Khan.

No. 438 *of* 1859.—The following Order issued by the Government of Bombay, is confirmed :—

No. 203, *dated* 10*th March* 1859.—Granting leave of absence to Europe, on Medical Certificate, to Captain Henry White Best, of the 5th Regiment European Light Cavalry ...	For three years, under the old Regulations.

No. 439 *of* 1859.—The services of the undermentioned Officers are placed at the disposal of the Hon'ble the Lieutenant-Governor of the North-Western Provinces :—

Assistant Surgeon J. C. Bow, M. D.
Assistant Surgeon T. T. Sherlock, B. A.

No. 440 *of* 1859.—Captain Tyrwhitt Pulman, of the Regiment of Artillery, is allowed leave of absence, from the 15th March to the 14th June 1859, to visit Bombay, with permission to proceed thence to Europe on Furlough on private affairs for two years, under the new Regulations.

No. 441 *of* 1859.—The under-mentioned Officers reported their departure on the dates specified opsite to their respective names :—

Second Captain E. C. S. Williams, of the Corps of Engineers, Principal of the Civil Engineering College at the Presidency, on leave for fifteen months. Government General Order No. 70, of the 17th January 1859 ...	*Bengal*, 24th January 1859.
Surgeon J. Harrison, M. D., Professor of Anatomy, &c., in the Medical College, on leave for two years. Government General Order No. 74, of the 18th January 1859 ...	

Captain and Brevet Lieutenant Colonel A. Taylor, C. B., of Engineers, Superintendent Lahore and Peshawur Road, on leave for fifteen months. Government General Order No. 306, of the 8th March 1859 ...

Lieutenant H. S. Clarke, of the Regiment of Artillery, on leave for eighteen months. Government General Order No. 289, of the 4th March 1859 ...

Bombay, 9th February 1859, from Bombay.

Brevet Lieutenant Colonel N. D. Barton, of the 3rd Bengal European Light Cavalry, on leave for two years. Government General Order No. 145, of the 7th February 1859.

Surgeon E. B. Thring, of the Medical Department, on leave for two years. Government General Order No. 130, of the 1st February 1859 ...

Captain and Brevet Major C. J. S. Gough, of the 5th Regiment Light Cavalry, on leave for two years. Government General Order No. 147, of the 8th February 1859 ...

Captain H. C. Roberts, of the 31st Regiment Native Infantry, on leave for eighteen months. Government General Order No. 126, of the 1st February 1859 ...

Captain H. Finch, of the 31st Regiment Native Infantry, on leave for eighteen months. Government General Order No. 101, of the 24th January 1859 ...

Lieutenant G. G. Thain, of the 2nd Regiment Native Infantry, (Grenadiers), on leave for eighteen months. Government General Order No. 126, of the 1st February 1859 ...

Simlah, 10th February 1859.

Captain J. G. Sparke, of the 21st Regiment Native Infantry, on leave for fifteen months. Government General Order No. 248, of the 24th February 1859 ...

Eliza Stewart, 14th February 1859, from Bombay.

Surgeon J. Jowett, of the Medical Department, on leave for two years. Government General Order No. 157, of the 8th February 1859 ...

Edmund Graham, 17th February 1859.

Captain G. W. Harding, of the 2nd Bombay Native Infantry, (Grenadiers), Commandant 2nd Sikh Infantry, on leave for fifteen months. Government General Order No. 137, of the 4th February 1859 ...

Agamemnon, 18th February 1859.

Captain J. W. L. Bird, of the 11th Regiment Native Infantry, on leave for fifteen months. Government General Order No. 147, of the 8th February 1859 ...

Phœbe Dunbar, 22nd February 1859

Lieutenant Colonel J. Powell, of the 55th Regiment Native Infantry, on leave for three years. Government General Order No. 137, of the 4th February 1859 ...

Octavia, 24th February 1859.

Major General H. M. Graves, of Infantry, on leave for three years. Government General Order No. 120, of the 28th January 1859 ...

Major General G. Tomkyns, Colonel of the late 19th Regiment Native Infantry, on leave for three years. Government General Order No. 200, of the 16th February 1859 ...

Major J. Sleeman, of the 73rd Regiment Native Infantry, General Superintendent of Operations for the Suppression of Thuggee, on leave for fifteen months. Government General Order No. 220, of the 19th February 1859 ...

Captain and Brevet Major F. J. Harriott, of the 4th Bengal European Light Cavalry, Deputy Judge Advocate General, on leave for fifteen months. Government General Order No. 133, of the 3rd February 1859 ...

Brevet Major T. F. Wilson, of the 13th Regiment Native Infantry, Deputy Assistant Adjutant General, Cawnpore Division, on leave for fifteen months. Government General Order No. 228, of the 21st February 1859...

Captain and Brevet Major R. H. Miles, of the Invalid Establishment, on leave for six months. Government General Order No. 219, of the 19th February 1859 ...

Captain A. G. Forsyth, of the 3rd European Regiment, on leave for fifteen months. Government General Order No. 210, of the 18th February 1859 ...

Captain S. R. J. Owen, of the late 19th Regiment Native Infantry, 2nd in Command Jhansi Division, Military Police, on leave for two years. Government General Order No. 218, of the 19th February 1859 ...

Candia, 25th February 1859.

Second Captain E. Tierney, of the Regiment of Artillery, Deputy Commissary of Ordnance, on leave for fifteen months. Government General Order No. 191, of the 14th February 1859 ...

Lieutenant W. Smith, of the 28th Regiment Native Infantry, Cantonment Joint Magistrate of Agra, on leave for fifteen months. Government General Order No. 210, of the 18th February 1859

Assistant Surgeon C. M. Smith, M. D., attached to the 1st Punjaub Irregular Cavalry, on leave for eighteen months. Government General Order No. 168, of the 11th February 1859 ...

Veterinary Surgeon R. W. Murray, attached to the Remount Depôt, Allahabad, on leave for twelve months. Government General Order No. 201, of the 16th February 1859

Candia, 25th February 1859.

Colonel J. Steel, C. B., of the 67th Regiment Native Infantry, on leave for fifteen months. Government General Order No. 325, of the 11th March 1859 ...

Lieutenant F. W. Grant, of the 22nd Regiment Native Infantry, on leave for eighteen months. Government General Order No. 175, of the 11th February 1859 ...

Alfred, 7th March 1859.

Captain H. Strachey, of the 66th or Goorka Regiment, on leave for two years. Government General Order No. 241, of the 23rd February 1859 ...

Lieutenant J. Alexander, of the Regiment of Artillery, on leave for eighteen months. Government General Order No. 87, of the 19th January 1859 ...

Lieutenant C. Martin, of the 1st Bengal European Light Cavalry, on leave for fifteen months. Government General Order No. 133, of the 3rd February 1859 ...

Gosforth, 9th March 1859.

Lieutenant Colonel Z. M. Mallock, of the Regiment of Artillery, retired. Government General Order No. 41, of the 11th January 1859 ...

Lieutenant W. H. Jackson, of the 52nd Regiment Native Infantry, on leave for eighteen months. Government General Order No. 175, of the 11th February 1859 ...

Harbinger, 9th March 1859.

Lieutenant Colonel and Brevet Colonel R. Garrett, of the 64th Regiment Native Infantry, on leave for two years. Government General Order No. 302, of the 7th March 1859 ...

Major and Brevet Lieutenant Colonel R. Farquhar, C. B., of the 6th Regiment Bombay Native Infantry, Commanding 1st Belooch Extra Battalion, on leave for fifteen months. Government General Order No. 259, of the 25th February 1859 ...

Captain C. W. Timbrell, of the Regiment of Artillery, on leave for two years. Government General Order No. 292, of the 4th March 1859 ...

Surgeon E. Campbell, of the Medical Department, Garrison Surgeon of Fort William, on leave for fifteen months. Government General Order No. 168, of the 11th February 1859 ...

Lieutenant S. Boulderson, of the 5th Bengal European Light Cavalry, on leave for eighteen months. Government General Order No. 302, of the 7th March 1859 ...

Assistant Surgeon T. Farquhar, M. D., of the Medical Department, Superintendent, Central Prison, Allahabad, on leave for eighteen months. Government General Order No. 302, of the 7th March 1859. ...

Alma, 10th March 1859.

Lieutenant G. C. Udny, of the 5th European Regiment, on leave for fifteen months. Government General Order No. 228, of the 21st February 1859 ...

St. Pierre, 16th March 1859.

Captain G. R. Brown, of Artillery, on leave for one year. Government General Order No. 369, of the 18th March 1859 ...

Malabar, 16th February 1859, from Bombay.

No. 442 *of* 1859.—The following promotion is made:—

6th European Regiment.

Ensign James Calder Stewart to be Lieutenant, from the 15th March 1859, *vice* Lieutenant A. Turnbull, deceased.

No. 443 *of* 1859.—The under-mentioned individual who was pronounced by the Invaliding Committee to be unfit for further duty and directed by General Order by the Commander-in-Chief 27th November last, to be sent to Europe recommended for Pension, is admitted to a Pension equivalent to 9*d.* per diem under the provisions of General Order of the 5th February 1820, with permission to reside in India, subject to the confirmation of the Right Hon'ble the Secretary of State for India:—

Gunner Patrick Dobson, of the 2nd Company 1st Battalion Artillery.

No. 444 *of* 1859.—His Excellency the Governor General of India has been pleased to make the following appointment with effect from this date :—

Major *Sir* E. F. Campbell, *Baronet*, of Her Majesty's 60th Royal Rifles to be Aide-de-Camp on His Lordship's Personal Staff, *vice* Major Bowie, proceeded to Europe.

No. 445 *of* 1859.—His Excellency the Governor General in Council is pleased to announce for general information that Her Majesty's Government have appointed the under-mentioned gentlemen to officiate temporarily as Chaplains with Her Majesty's Roman Catholic Troops sent out as re-inforcement to India :—

The Reverend John Knaresboro,
" " Peter O'Parke,
" " Lewis Mascarrllo,
" " Martin F. VanderKeyt.

No. 446 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on leave of absence, on Sick Certificate :—

Lieutenant Charles Myers Longueville Clarke, of the 37th Regiment Native Infantry ...	For two years, under the old Regulations.

No. 447 *of* 1859.—His Excellency the Governor-General in Council is pleased to admit Ressaldar Meer Modood Buksh, of the Guzerat Irregular Horse, to the 3rd Class of the Order of Merit, in consideration of the valuable services rendered by him to the State, and as a recognition of the gallantry and loyalty of his Corps.

No. 448 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on leave of absence, on Sick Certificate :—

Superintending Surgeon John Greig, of the Medical Department	For fifteen months, under the new Regulations.

No. 449 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on urgent private affairs :—

Lieutenant Henry Alexander Lindsay Carnegie, of the Corps of Engineers ...	For six months, without pay.

R. J. H. Birch, *Major-Genl.*,
Secy. to the Govt. of India.

Public Works Department.

No. 72.

General.—Establishments.

The 25th March 1859.

Notification.—Baboo Nilmoney Mitter, Assistant to the Civil Architect at the Presidency, is reduced from the Grade of 2nd Class Assistant Engineer to that of Probationary Assistant Engineer, and removed to the Dacca Division of Public Works.

No. 73.

the 26th March 1859.

Appointment.—Lieutenant A. C. Padday, of Engineers, placed at the disposal of the Public Works Department in G. O. G. G., No. 413, of the 25th instant, is appointed a Probationary Assistant Engineer and attached to the Punjab.

No. 74.

The 28th March 1859.

Transfers and Postings.—Lieutenant G. Swinton, of Engineers, Probationary Assistant Engineer, is transferred from the Barrackpoor to the Ramghur Division.

Lieutenant J. M. Heywood, of Engineers, Probationary Assistant Engineer, is transferred from the 2nd Division Grand Trunk Road to the Barrackpoor Division.

Mr. W. Barnfather, Probationary Assistant Engineer, is transferred from the Barrackpoor Division to the Ganges and Darjeeling Road.

Lieutenant C. N. Judge, of Engineers, Assistant Engineer 2nd Class, and Lieutenant R. C. Danbuz, of Engineers, Probationary Assistant Engineer, are posted to the 2nd Division Grand Trunk Road.

No. 75.

Erratum.—In Notification No. 38, of the 23rd ultimo, for "*Meerut Division*" read "Station of Shajehanpoor."

H. Yule, *Lieut.-Col.*,
Secy. to the Govt. of India.

Orders by the Lieutenant-Governor of Bengal.

No. 2119.

Appointments.—*The 11th March* 1859.—The following transfers have been sanctioned, *viz.* :—

Assistant Overseer Bipprodoss Mitter, from the Pooree or Southern Cuttack Division to the Central Cuttack Division.

Assistant Overseer Gunner W. Rowe, from the Cuttack (Building and Road) Division to the Pooree or Southern Cuttack Division

Assistant Overseer Serjeant J. Donovan from the 2nd Division Grand Trunk Road to the Ramghur Division.

The 24th March 1859.—Mr. J. M. Coates to be Civil Assistant Surgeon of Chumparun.

The 26th March 1859.—Moulavy Azhar Ali, Moonsiff of Pero, Shahabad, is promoted to the First Grade of Moonsiffs.

Baboo Gungapersaud Gossain to be a Commissioner for the improvement of the Town of Serampore, under Act XXVI. of 1850.

The 28th March 1859.—Moulavy Mahomed Wajid to be Sudder Ameen of Bhaugulpore, and Moonsiff of the Sudder Station of that District.

The 29th March 1859.—Mr. R. J. Richardson to officiate as Civil and Sessions Judge of Shahabad.

Mr. H. C. Richardson to officiate as Collector of Sarun.

Mr. F. J. Alexander to be Assistant to the Magistrate and the Collector of Moorshedabad.

Moulavy Furreedooddeen Ahmed to be a Deputy Magistrate, under Act XV. of 1843, and a Deputy Collector, under Regulation IX. of 1833, in Behar, and to exercise the powers of a Covenanted Assistant to a Magistrate, under Regulations XIII. of 1797 and IX. of 1807, in that District.

LEAVE OF ABSENCE.—*The 23rd March* 1859.—The Reverend T. A. C. Firminger, Chaplain of Howrah, for six months on Medical Certificate, under the Financial Notification of the 29th April 1856.

The 25th March 1859.—Mr. A. B. C. Eckford, Deputy Magistrate and Deputy Collector of Rajshahye, for two months on Medical Certificate, under Clause 2, Section V. of the Uncovenanted Absentee Rules.

Mr. H. F. Williams, Civil Assistant Surgeon of Burdwan, for one month, under the Financial Notification of the 29th October 1857, in extension of the leave granted to him on the 10th instant.

The 26th March 1859.—Mr. S. H. C. Tayler, in charge of the Sub-Division of Serampore, for one month, under Section XII. of the new revised Absentee Rules.

NOTIFICATION.—*The 29th March* 1859.—The privilege leave for three months granted to Mr. C. T. Buckland, Junior Secretary to the Government of Bengal, on the 21st instant, under Section XII, is commuted to leave on private affairs for six months, from the 23rd idem, under Section XIV. of the new revised Absentee Rules.

A. R. YOUNG,
Secy. to the Govt. of Bengal.

Orders by the Lieutenant-Governor, North-Western Provinces.

No. 822.

Allahabad, the 26th March 1859.

Leave of Absence.—Captain A. H. Ternan, Deputy Commissioner of Jaloun, for eight weeks under the Rules applicable to Military Officers on Staff employ, from 20th April, or any subsequent date on which he may avail himself of the leave, preparatory to applying for fifteen months' leave to England, on Medical Certificate.

No. 850.

The 29th March 1859.

Notification.—The services of Mr. Robert Henry Davies are placed at the disposal of the Government of India, with effect from the 27th December last, the date on which he made over charge of his late Office at Benares.

By Order of the Hon'ble the Lieutenant-Governor, North-Western Provinces,

E. C. BAYLEY,
Offg. Secy. to Govt., N. W. P.

Orders by the Lieutenant-Governor, Punjab Provinces.

Public Works Department,

No. 584, *dated* 21*st March* 1859.

Leave.—Assistant Supervisor Beharee Lall, attached to the Attock Division, Lahore and Peshawur Road, has obtained five months' leave of absence, on private affairs, from the 1st April 1859.

General Department,

No. 642, *dated* 22*nd March* 1859.

The leave of absence, for two months, granted to Mr. G. Ouseley, Deputy Commissioner of Shahpoor, notified in the *Punjab Gazette*, of the 16th February 1859, is hereby cancelled.

Public Works Department,

No. 602, *dated* 22*nd March* 1859.

Captain J. Crofton, Bengal Engineers, Superintendent Baree Doab Canal, has obtained eight weeks' leave from the 15th April 1859, preparatory to applying for Furlough to Europe, on Medical Certificate.

General Department,

Nos. 669-70, *dated* 23*rd March* 1859.

Mr. E. A. Prinsep, Deputy Commissioner of Sealkote, has obtained six months' leave to England from date of embarkation under Section XIV. of the Civil Absentee Rules; also eight weeks' preparatory leave from the date on which he may avail himself thereof.

Nos. 652-7, *dated* 22*nd March* 1859.

Appointments.—Captain R. Young, Assistant Commissioner, Lahore, to officiate as Deputy Commissioner of Hooshyarpoor, *vice* Mr. D. Simson, transferred to Oude.

Nos. 661-2, *dated* 23*rd March* 1859.

Sir A. H. Lawrence, *Bart.*, Assistant Commissioner, is posted to the Lahore District, as a temporary arrangement.

Nos. 658-60, *dated* 22*nd March* 1859.

Transfer.—Mr. W. B. Jones, Assistant Commissioner, from the Jhelum to the Lahore District.

By Order of the Hon'ble the Lieutenant-Governor, Punjab Provinces,

R. H. DAVIES,
Secy. to Govt. Punjab Provinces.

Opium Notification.

NOTICE is hereby given, that the fourth Sale of Opium, the provision of 1857-58, will be held at the Exchange Hall, on Thursday, the 14th of April 1859, at 11 A. M., and will comprise 2,260 chests, *viz* :—

Behar Opium	1,915
Benares Ditto	345
Total Chests,...	2,260

2. The general conditions of the Sale now advertized will be the same as usual. They may be ascertained by reference to the Notification issued on the 1st December 1858, and published in the *Government* and *Exchange Gazettes*, or on application at the Office of the Board of Revenue.

3. The latest dates for deposit and clearance will be the 19th and 29th April 1859, respectively, that is to say, no Sub-Treasurer's Receipts, Company's Paper or other Public Securities that may be tendered for deposit in redemption of Promissory Notes given by purchasers at the sale will be received after 4 P. M. of Tuesday the 19th April 1859, and no Treasury Receipts in full payment of lots will be accepted after 4 P. M. of Friday, the 29th April 1859.

4. In addition to the quantity above advertized for Sale, the following quantities more or less of Behar and Benares Opium of 1857-58, will be brought to Sale in the present year, on or about the dates specified below. The Board however reserve to themselves the right of altering these dates should circumstances render it expedient to do so.

	Behar about Chests.	Benares about Chests.	Total about Chests.
On or about Monday, 9th May 1859	1915	345	2260
Do. Monday, 13th June "	1915	345	2260
Do. Thursday, 14th July "	1915	345	2260
Do. Wednesday, 10th August "	1915	345	2260
Do. Friday, 9th September "	1915	345	2260
Do. Friday, 14th October "	1915	345	2260
Do. Monday, 7th November "	1915	345	2260
Do. Monday, 5th December "	1934	879	2813
	15339	2794	18133

By Order of the Board of Revenue,

E. T. TREVOR,
Secretary.

FORT WILLIAM,
The 23rd March 1859.

No. 257.

Notice.

TENDERS for the transportation of Salt from the Central and Southern Agencies of Orissa, to the Government Golahs at Sulkea, will be received at this Office until 2 P. M., of the 17th of May next.

2. The Tenders must be drawn up according to a form which may be obtained on application at this Office.

3. Distinct contracts must be entered into for the removal of the Salt in each of the three following localities, to wit Hunsooah (in Central Cuttack) and the Ustrung Aurungs and the Chilka Lake Aurungs, in the Southern or Poorce Agency.

4. Parties tendering must satisfy the Board of Revenue and the Commissioner of Cuttack, that they possess the means of conveying the full quantity of Salt tendered for, and with this object a list of the vessels intended to be employed must accompany each Tender.

5. The quantity of Salt to be shipped at the Hunsooah Golahs will probably not exceed 1,00,000 maunds in each year; that from the Ustrungs is roughly estimated at 80,000 maunds for the ensuing season, and that from the Chilka Aurungs at maunds 3,20,000. The tenderer may apply for the whole quantity for which freight is required at each locality, or for any part not less than a quarter of such quantity.

6. Contractors must engage to ship the Salt allotted to them, during the period between the last spring tides of October and the end of February.

7. Parties whose tenders are accepted will be required to make a deposit of Government Promissory Notes, or to furnish other unexceptionable Security for the performance of their contracts.

8. The Board reserve to themselves the right of rejecting any Tender without assigning a reason.

By order of the Board of Revenue,

E. T. TREVOR,
Secretary.

FORT WILLIAM,
The 15th March 1859.

Notification.

At the request of the Accountant-General at Bombay, it is hereby notified that the Treasury of the Collector of Bombay is to be expunged from the list annexed to Circulars of this Office, dated the 8th and 10th November last, on the subject of Military Remittances to and from Bombay and Madras.

E. DRUMMOND,
Accnt. Genl. to the Govt. of India.

FORT WILLIAM;
Accountant General's Office,
Durbar & Revenue Department,
The 23rd March 1859.

WEEKLY STATEMENT OF TRAFFIC PASSED THROUGH THE CIRCULAR AND EASTERN CANALS FROM 23rd TO 31st MARCH 1859.

From 23rd to 31st March 1859.	Name of Chowkeys	Charcoal.			Wood Coal.			Piece Goods. Native Produce.			Piece Goods, Imported Fabrics.			Hides.		Cotton.			Castor Seed.			Castor Oil.			Indigo.			Jaggery.			Jute.			Lime.			Mustard Seed.			Mustard Seed Oil.		
		Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.
Circular Canal — Bamanghatta		...	...	...	...	...	...	...	...	...	...	...	...	30	14500	39100	...	...	...	1	250	200	...	...	...	...	...	...	88	43550	31700	64	51959	36325	103	151175	115100	67	31300	21775	5	1975	900
Circular Canal — Chitpore		52	55100	36075	...	...	...	...	...	...	10	5275	280	bale	...	...	3	1000	925	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	3	625	230	...	...	...
Toley's Nullah — Samookpotta		...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	10	4525	3250	...	...	...	1	850	600	25	11175	7750	2	3600	1700
Toley's Nullah — Russa		...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Toley's Nullah — Kyderpore		2	3300	1800	...	...	...	...	...	...	...	...	...	...	...	...	1	125	8	...	...	...	...	...	...	...	...	...	4	1300	350	...	...	...	...	...	...	1	600	400	...	...	...

From 23rd to 31st March 1859.	Name of Chowkeys	Salt.			Sugar.			Tobacco.			Linseed.			Paddy.			Pulse.			Peas.			Rice.			Wheat.			Lentil.			Grain.			Sundries.	
		Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Number of Boats.	Maundage by Canal Measurement.	Maundage of Cargo by estimate.	Total Number of Boats.	Total Maundage by Canal Measurement.
Circular Canal — Bamanghatta		...	...	...	128	61475	46800	23	8900	5750	109	45975	26250	13	3500	2500	2	425	300	51	9423	6175	209	125850	91575	3	2300	1600	36	11550	7775	4	4750	3500	1439	530275
Circular Canal — Chitpore		213	141750	82450	...	...	...	...	...	...	...	...	...	...	...	...	1	150	150	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	705	308650
Toley's Nullah — Samookpotta		...	...	...	...	...	...	1	750	600	1	3100	1000	73	14600	10975	...	...	...	17	3023	1950	11	3625	2470	...	...	...	...	...	...	...	...	...	652	108560
Toley's Nullah — Russa		...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	235	12000	11975	...	...	...	...	...	...	...	...	...	335	10775
Toley's Nullah — Kyderpore		19	14625	6350	...	...	...	...	...	...	...	...	...	2	550	150	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	316	93600

J. F. GALIFFE,
Collector and Magistrate of Canals.

Notice.

THE General Treasury will be closed on Monday, he 11th April 1859, on account of the Hindoo Holiday Sree Ram Nubbomy, and on Tuesday, the 2th and Wednesday, the 13th April 1859, on account of the Hindoo Holidays Churruck Poojah.

J. I. HARVEY,
Sub-Treasurer.

GENERAL TREASURY,
The 24th March 1859.

CALCUTTA UNIVERSITY.

B. L. EXAMINATION.
1859.

THE above Examination will commence at the Town Hall, on Monday, the 4th instant, at 10 o'clock A. M., and be continued during the five following days.

By Order of the Vice-Chancellor,
H. SCOTT SMITH, *A. B.*,
Registrar.

CALCUTTA UNIVERSITY,
The 1st April 1859.

Supreme Court of Judicature at Fort William, in Bengal.

IN EQUITY. Bindasoondery Dossee,
Versus
A. B. Mackintosh and others.

NOTICE is hereby given, that on Tuesday, the 5th April next, at one o'Clock in the afternoon, James Welch, Esquire, Receiver of the Supreme Court, and the Receiver appointed in the above Cause, will put up for lease by competition at his Office, one anna eight pies share of Turruff Ranaghaut, situate in Zillah Nuddea, upon such terms and conditions as will be then made known and upon such Security as he may think fit.

For further particulars, apply at the Receiver's Office, Supreme Court.

RECEIVER'S OFFICE;
Court House,
The 17th March 1859.

TO BE SOLD, pursuant to a decree of the Supreme Court of Judicature, at Fort William in Bengal, made in a certain Cause, wherein Robert Molloy, Alexander Brodie Mackintosh, and Henry Harington Poe, Executor of William Haring Poe, deceased, are Plaintiffs, and Hurchunder Lahoree is Defendant, bearing date the 27th day of October 1857, with the approbation of John Cochrane, Esquire; the Master of the said Supreme Court, at his Office in the Court House, in the Town of Calcutta, on a day of which due notice will be hereafter given, the following properties, that is to say,—

A piece or parcel of land or ground, containing by estimation twenty-five biggahs and one and a half cottahs, situate in Ramkistnopore, in Pergunnah Boroo, in the Zillah of the Twenty-four Pergunnahs and Province of Bengal, and butted and bounded as follows:—(that is to say,) on the North by the rented land of Mr. Robinson, on the West by the garden of Sreenauth Mullick, on the East by the River Hooghly, and on the South by an Embankment.

A piece or parcel of land or ground, containing forty biggahs more or less, situate, lying and being at Sulkea, in Pergunnah Balleah, in the Zillah of the Twenty-four Pergunnahs aforesaid, and commonly called "Gollabattee," and butted and bounded as follows:—(that is to say,) on the North by the East India Company's Salt Gollah, on the South by a Highway, on the East by the River Hooghly, and on the West by a Highway, and in respect of which said piece or parcel of land or ground a yearly rent of Company's Rupees one hundred and ninety-four, two annas and one pie is payable to the Zemindar or Landlord thereof.

A piece of garden ground standing in the name of the said Hurchunder Lahoree, held by pottah No. 1076, containing by estimation one biggah and three cottahs, situate at a place called Braminparrah, in the Town of Serampore, and in the Zillah of Hooghly.

A brick-built house, together with the piece of lackraj or rent-free land thereto belonging, and on part whereof the same is erected, under a pottah No. 1145, in the Serampore Collectorate Register, containing by estimation one biggah and nine cottahs more or less, situate at Serampore, aforesaid, and bounded as follows:—(that is to say), on the North and West by the land of the said Hurchunder Lahoree, on the South and East by a lane.

Another piece or parcel of land, held under a pottah No. 1077, in the Serampore Collectorate Register, comprising two biggahs and ten cottahs more or less, situate, lying and being at Serampore, aforesaid, and butted and bounded as follows:—(that is to say), on the North by a Highway, on the South by the land of Shaikh Nokree Tailor, on the East by the land of Moorjin Mistry, and on the West by a foot path, and in respect whereof a yearly rent of Company's Rupees seven, eleven annas and eight pies is payable to Government the Landlord thereof.

Another piece or parcel of land held under a pottah No. 1161, in the Serampore Collectorate Register, comprising fifteen cottahs more or less, situate, lying and being at Serampore, aforesaid, and butted and bounded as follows:—(that is to say), on the North by the land of Nilloo Dharra, on the South by the land of Goluck Pyne, on the East by the land of Potey Mistry, and on the West by a Highway, and in respect whereof a yearly rent of Company's Rupee one, nine annas and six pies is payable to the Landlord thereof.

Another piece of land held under a pottah No. 1402, in the said Collectorate Register, comprising seven cottahs and five chittacks, situate, lying and being at Serampore, aforesaid, and butted and bounded as follows:—(that is to say), on the North by the River Hooghly, on the South by a Highway, on the East by the land of Gourmohun Gossain, and on the West by the debutter land of Sree Sree Radamadub Takoor, and in respect whereof the yearly rent of Company's Rupees two, eleven annas and nine pies is payable to the Landlord thereof.

Another piece or parcel of land, held under a pottah No. 1411, (upon which stands a lower-

roomed godown) in the said Collectorate Register, comprising two cottahs more or less, situate, lying and being at Serampore, aforesaid, and bounded as follows:—(that is to say), on the North by a Highway, on the South by the land of Petumber Chunder, on the East by the land of Bungsy Chunder, and on the West by a lane, and in respect whereof a yearly rent of twelve annas and nine pies is payable to Government the Landlord thereof.

Another piece or parcel of land, held under a pottah No. 1449, in the said Collectorate Register, comprising five cottahs more or less, situate, lying and being at Serampore, aforesaid, and butted and bounded as follows:—(that is to say), on the North and South by the land of the late Ruggoram Gossain, and on the East and West by the land of the said Hurchunder Lahoree, and in respect whereof a yearly rent of Company's Rupee one is payable to Government.

Another piece or parcel of lakraj or rent-free land, held under a pottah No. 1146, in the said Collectorate Register, comprising three biggahs, thirteen cottahs, and seven chittacks more or less, situate, lying and being at Serampore, aforesaid, and situate and being in front of the brick-built building in the said Hurchunder Lahoree's garden.

A brick-built ghaut, situate in the village of Chittra on the banks of the River Hooghly, called Hurro Baboo's Ghaut, and being in front of the said family dwelling-house in Braminparrah, in Serampore, aforesaid, situate on the opposite side of the road.

Another piece or parcel of garden ground, comprising on the whole about thirty biggahs or thereabouts, including three tanks therein, together also with the lower-roomed dwelling-house or bytuekhannah, standing on part thereof, and which said garden ground constitutes at present one compound and belongs as to part thereof to Serampore, and as to another part thereof to Rajjedhurpore, and also as to the remainder thereof, is lakraj land.

Another piece of land, comprising in the whole two biggahs and four cottahs or thereabouts, held in perpetual tenure by the said Hurchunder Lahoree from Gopeekisto Gossain, the Zemindar of Chittrah, ten annas and fifteen gundahs share at an annual rent for the whole of Company's Rupees sixteen, thirteen annas and seventeen gundahs, and which said land is now occupied by the following tenants, under the said Hurchunder Lahoree; namely, Sonatun Chootar, two cottahs and eight chittacks; Mohun Mallah, five cottahs; Bungshee Dome, one cottah and eight chittacks; Komul Ghurramee, two cottahs; Modoosoodun Malla and Banessur Malla four cottahs; Juggobundoo Malla, one cottah; Bhoota's mother, one cottah; Hurro Malanee, one cottah; Ramdhone Malla, three cottahs; Rokeenee Malla and Poresh Bewah, one cottah and eight chittacks; Roopchund Choonooree, one cottah and eight chittacks; Bhuguram Modock, three cottahs; Hurroo Chatterjee, three cottahs; Potee Bewah, one cottah; Chauroo Dome, three cottahs; Kallee Chootar, two cottahs; Janokee Panjaree, two cottahs; Hullodhur Dome, one cottah and eight chittacks; Ramchand Malla and Nubbye Malla, three cottahs, total—two biggahs and four cottahs.

Another piece of land, situate in Chittrah Gourunghatty, comprising in the whole two biggahs and eight cottahs more or less, held by the said Hurchunder Lahoree in perpetual tenure from Ramtarun Chowdry and several others, the Zemindars of Chittrah, nine annas share subject to the annual rent of Company's Rupees eleven, three annas and four gundahs, and which said land as to ten cottahs thereof are known as Stable-barry and have an upper-roomed house erected on part thereof, and which said land as to the remaining one biggah and eighteen cottahs is occupied by the following tenants holding from the said Hurchunder Lahoree, *namely*, Juggoo, koloo, Bachoo, chokedar, and Kyroo, straw-seller.

Another piece of land comprising ten cottahs, situate in Chittrah aforesaid, held by the said Hurchunder Lahoree in perpetual tenure from Rammarain Mookerjee, as zemindar thereof at the annual rent of one Rupee, six annas and six pies, and which land as to seven cottahs is at present in the possession of Hurchunder Lahoree, as to one cottah in the occupation of Bungsee Koyboto, and as the remaining two cottahs in the possession of Jadoo Paramanick as his tenants.

An upper-roomed brick-built family dwelling-house, situate at Braminparrah, in the Town of Serampore, in the Zillah of Hooghly, and the piece or parcel of land or part whereof the same is erected and built, containing in the whole by measurement, as appears by the pottahs thereof, (one dottah being for nine cottahs and six chittacks of land, and the other pottah for two biggahs, two cottahs, thirteen chittacks and five feet), two biggahs, twelve cottahs, three chittacks and five feet and bounded as follows:—(that is to say), on the North by the public Road, on the East by the land and premises of Kistomohun Bonnerjee, and other land belonging to the said Hurchunder Lahoree, and on the South and West by the land and premises of the late Roghooram Gossain, and paying in respect of the said parcel of land an aggregate annual Revenue to Government of Company's Rupees ten, twelve annas and eleven pies.

WILLIAM DALLAS,
Attorney.

JOHN COCHRANE,
Master.

CALCUTTA SUPREME COURT;
Master's Office,
The 16th March 1859.

Oriental Bank Corporation.

INCORPORATED BY ROYAL CHARTER.

WITH reference to Government Notification No. 5, Fort William, Financial Department, 26th January 1855, notifying the intention of Government to dissolve its connexion with the Government Agency—

The Oriental Bank Corporation undertake the safe custody of Government Paper, Shares in the Capital Stock of the Bank of Bengal, and other local Stocks, free of all charge.

Will draw Interest and Dividends on the same as they fall due, and remit at the current rates of exchange, or pay the same according to instructions, if to be remitted through the Corporation. Without charge.

If to be paid in India, a Commission will be charged of ... 1-4th per Cent.

On returning Government Paper or Share Certificates out of safe custody, ... 1-8th per Cent.

On the purchase of Government or other Securities, ... 1-4th per Cent.
On the sale of Government Paper or other Stock, the proceeds of which are to be remitted through the Corporation, ... Without charge.

WM. ANDERSON,
Agent.

ORIENTAL BANK CORPORATION;
Calcutta, 29th January 1855.

Statement of the Affairs of the Bank of Bengal for the Week ending 30th March 1859.

LIABILITIES.					ASSETS.				
Proprietors' Capital ...	...	1,07,00,000	0	0	Government Securities ...	...	23,92,000	0	0
Reserve Fund ...	...	1,97,534	10	10	Dues from Government ...	...	6,94,682	11	10
Current Accounts ...	...	95,29,219	6	3	Cash ...	...	1,25,85,559	11	11
Cash Credits Undrawn ...	...	4,89,979	2	11	Loans on Deposit of Securities ...	...	1,19,90,800	0	0
Other Claims	...	2,52,828	14	7	Discount Loans on ditto ...	...	64,13,900	0	0
Bank Notes	...	1,43,08,732	0	0	Accounts of Credit on ditto ...	...	6,50,300	0	0
Post Bills	...	2,95,324	12	2	Government Bills Discounted ...	...	18,572	0	0
Profit and Loss *(Rebate Account)* ...	...	37,565	14	5	Mint Certificates ditto ...	...	41,727	6	8
					Mercantile Bills ditto ...	...	8,96,809	13	0
					Dead Stock	...	80,343	2	4
					Interest accrued ...	...	489	15	5
Co.'s Rs.	...	3,58,71,184	13	2	Co.'s Rs.		3,58,71,184	13	2

Published by order of the Directors,
J. B. PLUMB,
Secretary and Treasurer.

C. N. COOKE,
Accountant.

Commercial Bank of India.

CALCUTTA BRANCH.

Rates of Exchange on London Joint Stock Bank.

		s.	d.	
At 6 months' sight ...	...	2	0¼	per Rupee
„ 3 „ „ ...	...	1	11¾	„
„ 30 days' „ ...	...	1	11¾	„
„ 3 „ „ ...	...	1	11¾	„

The Bank grants Drafts on the Head Office, Bombay, and on its Branches in London, Shanghae, and Hong-Kong. Bills collected at any of the above places at a uniform charge of ¼ per Cent.

The Bank will undertake the purchase or sale of Government Paper, Bank Stock and other Securities, draw Interest and Dividends payable in Calcutta, when due, at a Commission of ¼ per Cent.

No charge made when the proceeds of Sale or amount of Interest or Dividends drawn is remitted in the Bank's Bills.

Rates of Interest allowed to Deposits subject to

3 months' notice of withdrawal,	4	p. ct.	per	annum
6 ditto ditto	ditto	5	„	
2 ditto ditto	ditto	6	„	

Notice may be given when the money is deposited, or at any subsequent time; and it will be dispensed with in cases when the money is to be remitted through the Bank.

Current Accounts kept and Interest allowed at 2 per Cent. per annum on Balances of Rupees 500 and upwards, not exceeding Rupees 50,000, unless by special agreement.

Hours of business, 10 A. M. to 3 P. M. On Saturdays, 10 A. M. to 1 P. M.

W. S. FITZWILLIAM,
Agent.

27, TANK SQUARE,
Calcutta, 7th October 1858.

Court for the Relief of Insolvent Debtors at Calcutta.

In the matter of the Asiatic Marine Insurance Office, an Insolvent.

On Saturday, the 4th day of December instant, it was ordered that such of the Shareholders of the said Asiatic Marine Insurance Office resident in Calcutta, or the Suburbs thereof, as have neglected to pay the sum of Co.'s Rs. 2,000 at which they have been respectively assessed by the Official Assignee of this Court, in respect of each Share held by them respectively in the said Asiatic Marine Insurance Office, do, on or before the 1st day of February next, pay to the said Official Assignee the said sum of Co.'s Rs. 2,000 at which they have been respectively assessed in respect of such share, or so much thereof as still remains unpaid and that the said Asiatic Marine Insurance Office resident in Hong-Kong and in Bombay, do, on or before the 2nd day of May next, and that the Shareholders of the said Asiatic Marine Insurance Office resident at Mauritius and in Great Britain, and all other places not herein specifically mentioned, do, on or before the 1st day of August next, pay to the said Official Assignee the respective sums at which they have been respectively assessed in respect of the Shares held by them respectively in the said Asiatic Marine Insurance Office, and that in case any of the Shareholders of the said Asiatic Marine Insurance Office shall neglect to comply with this order within the time hereby limited, the said Official Assignee shall be at liberty to apply to this Court that such defaulting Shareholders may be adjudged to have committed an act of Insolvency according to the provisions of the Act No. XLIII. of 1850, passed by the Hon'ble the President of the Council of India in Council, on the 27th day of December 1850, entitled an Act for the Regulation of Registered Joint Stock Companies.

Denman and Hatch, *Attorneys.*

Chief Clerk's Office, 10th December 1859.

In the matter of John Deffell, lately carrying on trade and business in partnership with one John Fergusson, of Calcutta, as a Merchant and Agent, at No. 77, Clive Street, in the Town of Calcutta, under the name, style and firm of Allan, Deffell and Co., an Insolvent.

On Saturday, the 5th day of March instant, it was ordered that the first Saturday in the month of March 1860, be appointed for the further hearing of this matter, and that unless cause be shown to the contrary on that day, the said Insolvent be discharged personally as well as to his after-acquired property from all liability for debts, claims and demands of and against the said Insolvent at the time of the filing of his petition for relief.

Sandes, Watts and Collis, *Attorneys.*

Chief Clerk's Office, 19*th March* 1859.

In the matter of Gungakaunt Bhadoory, of Bally, near Calcutta, and also of Postah, in Calcutta, formerly a Clerk in the service of Messrs. Parry and Co., Wine Merchants, an Insolvent.

On Friday, the 25th day of March instant, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 7th day of May next, and that the said Insolvent do then attend to be examined by the said Court.

T. Owen, *Attorney.*

Chief Clerk's Office, 29*th March* 1859.

In the matter of Eric Bollman Gordon McDowgal, of Calcutta, at present residing at No. 18-1, Theatre Road, in Calcutta, late a Clerk in the firm of Messrs. Henderson and Co., an Insolvent.

Notice, that an application for an *ad interim* protection order has been this day made by the said Insolvent and that such application will be heard and disposed of by the Acting Commissioner of the Insolvent Court on Friday, the 8th day of April instant, at the hour of 10 o'clock in the forenoon.

Orr and Goodall, *Attorneys.*

☞ "*Any Creditor of the said Insolvent, desirous of opposing such application, must appear before the said Court at the time and place aforesaid.*"

In the matter of Eric Bollman Gordon McDowgal, of Calcutta, at present residing at No. 18-1, Theatre Road, in Calcutta, late a Clerk in the firm of Messrs. Henderson and Co., an Insolvent.

Notice, that the petition of the said Insolvent, seeking the benefit of the Act XI. Vic. cap. XXI. was filed in the Office of the Chief Clerk on the 30th day of March last, and by an order of the same date the Estate and Effects of the said Insolvent were vested in the Official Assignee.

Orr and Goodall, *Attorneys.*

In the matter of Eric Bollman Gordon McDowgal, of Calcutta, at present residing at No. 18-1, Theatre Road, in Calcutta, late a Clerk in the firm of Messrs. Henderson and Co., an Insolvent.

On Wednesday, the 30th day of March last, it was ordered that the matters of the petition of the said Insolvent be heard on Saturday, the 4th day of June next, and that the said Insolvent do then attend to be examined by the said Court.

Orr and Goodall, *Attorneys.*

Chief Clerk's Office, 1st April 1859.

The Calcutta Steam Tug Association, Limited.

A Dividend at the rate of Co.'s Rs. 30 per share is now payable at the Office of the Secretaries. Proprietors are requested to send their Share Certificates to the Office, that Receipts and Cheques may be prepared.

GORDON, STUART & Co.,
Secretaries.

CALCUTTA,
The 29th March 1859.

Notice.

MR. ROBERT BROWN MACKAY is authorized to sign our Firm.

GILLANDERS, ARBUTHNOT & Co.

The 28th March 1859.

Notice.

WE have authorised MR. SAREUS NIXON SMELLIE to sign our Firm by procuration from this date.

PEARCE, MACRAE & Co.,

CALCUTTA,
The 31st March 1859.

Notice

Is hereby given for the information and guidance of all Treasury Officers that Government Promissory Note, No. 8283 of 1856-57, for (1,000) one thousand Rupees, in favor of Reverend R. M. Price, has been lost in transit from the Loan Office to Almorah.

B. W. COLVIN,
Senr. Asst. Commissioner.

KUMAON;
Senr. Asst. Commissioner's Office, Almorah,
The 23rd March 1859.

Notice.

PLUNDERED OR DESTROYED, during the Mutiny at Delhie in 1857, the fifth four per Cent. Government Promissory Notes, Nos. 2772 and 9099 of 1842-43, dated 1st February 1843, for Co.'s Rs. 1,000 each, standing in the name of Mrs. S. Champion, by whom they were transferred to the late Mr. J. W. Staines, of Delhie, who was Executor to the Estate of the said Mrs. S. Champion (and who was killed in May 1857 by the Rebels,) by whom the said Promissory Notes were bequeathed to the late Mrs. Sarah White, wife of the late Mr. W. C. White, to whose Estate the undersigned has been empowered under Act XX. of 1841, to administer.

Payment of the said Notes and Interest thereon has been stopped at the Loan Office, and application is about to be made to Government for the issue of Duplicate Notes in favor of the undersigned.

M. L. White.

Agra, the 8th March 1859.

Lost, Stolen or Destroyed

THE under-mentioned Government Promissory Notes, standing in the name of Mah Leekee Begum, the Proprietor, by whom they were never endorsed to any other person. Payment of the Notes and of Interests thereupon have been stopped at the Loan Office, and application is about to be made to Government for the issue of Duplicate Notes in favor of the Proprietor :—

No. 10781	of	10547	of	1835-36,	dated 31st March 1836,	for Rs.	5000
No. 10782	„	„		„	„	for „	5000
No. 10783	„	„		„	„	for „	4000
No. 10785	„	16535		„	„	for „	3000
No. 10786	„	„		„	„	for „	3000
No. 10787	„	„		„	„	for „	3000
No. 10788	„	„		„	„	for „	3000
No. 10789	„	„		„	„	for „	3000
No. 10790	„	„		„	„	for „	3000
No. 10791	„	„		„	„	for „	3000
No. 10792	„	„		„	„	for „	3000
No. 10793	„	„		„	„	for „	2000
No. 10794	„	„		„	„	for „	2000
No. 417	„	1080		„	„	for „	7000
No. 28681	„		1854-55,	„	30th June 1854,	for „	2000
No. 28682	„			„	„	for „	2000
No. 28683	„			„	„	for „	3000
No. 28684	„			„	„	for „	2500
No. 28685	„			„	„	for „	2500
No. 28686	„			„	„	for „	5000
No. 13977	„			„	„	for „	5000
No. 33545	„			„	„	for „	1000
No. 2477	„	40145		„	„	for „	5000
No. 2401	„			„	„	for „	4000
No. 2404	„			„	„	for „	4000
No. 2466	„			„	„	for „	3000
No. 2467	„			„	„	for „	3000
No. 2468	„			„	„	for „	3000
No. 2968	„	20797		„	„	for „	2000
No. 2974	„			„	„	for „	3000
No. 4609	„			„	„	for „	1000

MAH LEEKEE BEGUM.

LUCKNOW,
The 21st March 1859.

Lost.

THE under-mentioned 5 Per Cent. Government Promissory Notes, originally standing in the names mentioned against each and, last endorsed to Kissen Sahee :—

No. 33593 of 1856-57, for Rupees 2,000, originally standing in the name of Peerbux, and last endorsed to Kissen Sahee.

No. 32318 of 1856-57 for Rupees 1,000, originally standing in the name of Nannoo Mull, and last endorsed to Kissen Sahee.

No. 49495 of 1856-57 for Rupees 1,000, originally standing in the name of Nannoo Mull, and last endorsed to Kissen Sahee.

Payment of the above Notes and of Interest thereupon has been stopped at the Loan Office, and application is about to be made to Government for duplicates thereof, in the name of Kissen Sahee, their present proprietor, by whom they were not endorsed to any body.

(Signed) NANNOO MULL.

CALCUTTA,
The 24th March 1859.

General Post Office Notifications.

Notice.

No. 8189.

On Letters and Newspapers sent in the Alexandria Packet for Jaffa, Jerusalem, Bagdad, Beyrout, Constantinople, and other places in Turkey or Syria, the following rates of Postage must be pre-paid :—

FOR LETTERS.

	Rs.	As.	P.
When not exceeding half an ounce ...	0	11	6
When above half an ounce and under one ounce	1	7	0
When above one ounce and not exceeding two ounces	2	14	0

FOR NEWSPAPERS.

When not exceeding two ounces ...	0	0	9
When exceeding two ounces and under four ounces	0	1	6
When exceeding four ounces and under eight ounces	0	3	0
When exceeding eight ounces and under 1lb	0	6	0
When exceeding 1lb and under 1½lb ...	0	8	0

The above rates are those chargeable upon letters and papers posted at the Presidency Towns of Calcutta, Madras and Bombay. On letters and papers posted in the interior, as also when posted at Calcutta or Madras for transmission *viâ* Bombay, Indian Inland Postage must be pre-paid in addition to the above rates.

C. K. DOVE,
Offg. Post-Master Genl. of Bengal.

CALCUTTA,
The 22nd March 1859.

Notice.

No. 8199.

LETTERS for all the States of Italy, (except Tuscany), may in future be pre-paid in India, and if pre-paid, will be sent in the Malta Mail for direct despatch from that place to Italy. Newspapers may be similarly sent.

The rates of Postage are as follows :—

On Letters	To Sardinia.			To any other State of Italy, except Tuscany.		
Weighing less than ¼ of an ounce	0	6	0	0	14	0
More than ¼ of an ounce, but less than ½ an ounce	0	9	0	1	0	0
More than ½ an ounce, but less than ¾ of an ounce ...	0	15	0	1	14	0
More than ¾ of an ounce, but less than 1 ounce... ...	1	2	0	2	0	0

The above rates comprise the Indian Postage as well as the British and Foreign Postage.

On Newspapers and Printed Papers	To Sardinia.	To any other State of Italy, except Tuscany.		
Weighing less than 2 ounces...	Newspapers, &c., to Sardinia cannot be prepaid.	0	1	6
More than 2 ounces, less than 4 ounces ...		0	2	0
More than 4 ounces, less than 6 ounces ...		0	3	6
More than 6 ounces, less than 8 ounces ...		0	4	0

In addition to the above rates on Newspapers and Printed Papers, Inland Indian Postage must

be paid on all papers posted elsewhere than at the Post Offices of Calcutta, Madras, and Bombay, and likewise on all papers posted in Calcutta or Madras when they are intended for transmission *viâ* Bombay.

Unpaid Letters for Tuscany and Unpaid Letters for any other part of Italy, (except Sardinia) will be forwarded as heretofore *through France*.

For Sardinia, Unpaid Letters, as well as Paid Letters, will be sent in the Mail for Malta.

Upon *Unpaid* Letters for any part of Italy, except Sardinia, Indian Inland Postage must be paid, as heretofore, according to the Indian Scale of weight, *vide* Section XIX of Act XVII of 1854.

C. K. DOVE,
Offg. Post-Master General of Bengal.

CALCUTTA,
The 22nd March 1859.

No. 5556.

OVERLAND MAIL.

THE Overland Mail, *viâ* Marseilles and Southampton, and the intermediate Ports, Madras, Ceylon and Aden, per P. and O. Company's Steamer *Bengal*, will be closed at this Office, on Friday, the 8th proximo, at 6 P. M.

Letters, &c., for Penang, Singapore and Hong-Kong, will be forwarded *viâ* Galle, and for Mauritius and Australia *viâ* Aden by this opportunity.

T. GARRETT,
Offg. Deputy Post-Master Genl.

CALCUTTA;
General Post Office,
The 24th March 1859.

No. 5600.

NOTICE is hereby given, that the Mails for Akyab, Rangoon and Moulmein, for transmission per Steamer *Baltic* will be closed at this Office, on Saturday, the 2nd proximo, at 6 P. M.

T. GARRETT,
Offg. Depy. Post-Master General.

FORT WILLIAM;
General Post Office,
The 26th March 1859.

No. 5619.

OVERLAND MAIL.

MAIL PACKETS will be closed at this Office at 5 P. M., on the 1st and 2nd proximo, for the Overland Mail Steamer, which leaves Bombay on the 11th idem.

The Public are reminded, that 2nd will be the latest safe day, and that letters and papers will be sent *viâ* Marseilles only.

T. GARRETT,
Offg. Depy. Post-Master Genl.

CALCUTTA;
General Post Office,
The 29th March 1859.

No. 5663.

NOTICE is hereby given, that the Mails for Chittagong and Akyab, for transmission per Brig *Deva*, will be closed at this Office, on Saturday, the 2nd proximo, at 6 P. M.

T. GARRETT,
Offg. Depy. Post-Master Genl.

FORT WILLIAM;
General Post Office,
The 30th March 1859.

IT is hereby notified, that unless marked for particular Ships, all Letters received at the General Post Office between Monday, the 21st March 1859, *and Sunday, the 27th March* 1859, *both dates inclusive, were despatched by the under-mentioned Vessels which sailed from Calcutta on dates specified :—*

Letters received on dates from and to	By what Ship despatched.	Bound to	REMARKS.
21st March 1859 ..	Steamer *Burmah* ...	Akyab, Rangoon and Moulmein ...	Left Town on the 22nd March 1859.
21st to 23rd March 1859..	„ *Lancefield* ...	Singapore and China ...	Left Town on the 24th ditto.
21st to 23rd „ . „ ..	„ *James Hartley*...	Penang ...	Left Town on the 24th ditto.
21st to 23rd „ „ ..	Ship *Fulwoood* ...	Mauritius ...	Left Town on the 24th ditto.

CALCUTTA;
General Post Office,
The 29th March 1859.

T. GARRETT,
Offg. Depy. Post-Master General.

Printed and Published for the Government, by THOMAS JONES, *at the Office of the Bengal Secretariat, Calcutta.*

No. 28. [773]

The Calcutta Gazette.

WEDNESDAY, APRIL 6, 1859.

Legislative Council of India.

THE 26TH MARCH 1859.

THE following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 22nd March 1859, and is hereby promulgated for general information :—

ACT No. VIII OF 1859.

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

WHEREAS it is expedient to simplify the Procedure of the Courts of Civil Judicature not established by Royal Charter, It is enacted as follows :—

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts have cognizance of all suits unless specially barred.

1. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay respectively, or by any Act of the Governor General of India in Council.

Unless suits previously heard and determined.

2. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of judgments of the Civil Courts.

3. The judgments of the Civil Courts shall not be subject to revision, otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellate Jurisdiction.

No person exempted from jurisdiction by reason of place of birth or of descent.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction of Civil Courts.

5. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if in the case of suits for land or other immoveable property such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell, or personally work for gain, within such limits.

Court in which suit to be instituted.

Transfer of suits.

6. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court and to try such suit itself or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal which may be instituted in any Court subordinate to such Sudder Court shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to

sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may in certain cases order separate trials of such causes of action.

9. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claim for recovery of land & for mesne profits to be deemed distinct causes of action.

10. A claim for the recovery of land and a claim or the mesne profits of such land shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Suits for immoveable property situate within different jurisdictions of the same District.

11. If the suit be for land or other immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immoveable property situate in different Districts.

12. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Sudder Courts.

13. If the Districts within the limits of which the property is situate, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit is brought, is subject; and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction and alleged by the defendant to be within another local jurisdiction.

14. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Proviso.

Declaratory suit.

15. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

CHAPTER II.

Preliminary Rules.

Parties may appear in person or by recognized agent or by pleader.

16. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Recognized agents.

17. The recognized agents of parties by whom such applications and appearances may be made are—

Persons holding powers of attorney.

1*st*. Persons holding general powers of attorney from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

Persons carrying on trade or business for absent persons.

2*ndly*. Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons authorized to act for Government.

3*rdly*. Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons specially appointed to prosecute a suit for any Sovereign Prince.

4*thly*. Persons specially appointed by order of Government at the request of any Sovereign Prince, or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Acts required to be done by a party to a suit in person may be done by his recognized agent.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent.

Service of notices, &c., on recognized agents.

Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable

to the service of notices and processes on such recognized agent.

Appointment of pleader.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in the Court. All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Service of notices on pleaders.

Officers or Soldiers who cannot obtain leave of absence may authorize any person to appear for them.

19. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersign the same, and it shall be filed in the Court. When so filed, the counter-signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

The person so authorized may appear personally, or appoint pleader.

20. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the Officer or Soldier could do if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a pleader appointed by him.

Exemption of certain women from personal appearance.

21. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may exempt certain persons from personal appearance.

22. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the Principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

Cost of serving process.

23. Every process required to be issued under this Act, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the cost of such service shall be paid into Court before the process is issued.

Requisite sum to be paid into Court before process issued.

Punishment for false verification of plaint, statement, &c.

24. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

Of the institution of Suits.

Suits to be commenced by plaint.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court and shall contain the following particulars:—

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued: and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:

If the suit be for money due on a bond or other written instrument:—Payment of due on *(a bond or other written instrument as the case may be)*, for the sum of , bearing date the day of , and payable on the day of , namely,—

Principal... ... ...
Interest ... ...
Amount paid (if any) ... ...

Balance due.....

If the plaintiff claim exemption from any law of limitation, say—"The plaintiff was an infant *(or as the case may be)* from the day of to the day of ".

If the suit be for the price of goods sold:—Payment of on account of maunds of *(rice, indigo, sugar, or as the case may be)* sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff, *[here set out the nature of the injury, and state the particulars of the pecuniary loss (if any).]*

4.—When the claim is for any property other than money, its estimated value.

The following is an instance:

If the suit be for an estate or for a share in an estate paying Revenue to Government:—Possession of the estate or of share in the estate, called , situate in the Zillah of the sudder jumma of which is and estimated value (of which the plaintiff was dispossessed *(or forcibly or fraudulently dispossessed, if the case be so)* on the day of ; or to which the plaintiff became entitled by inheritance from *(or by gift, purchase, or otherwise, as the case may be)* on or about the day of .

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any Corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of ," or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of the Company, shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

Plaint to be subscribed and verified.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following or to the like effect:—

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief.

If plaintiff by reason of absence be unable to subscribe and verify the plaint.

28. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification.

In suits by a Corporation or Company, a Director or Secretary shall verify the plaint.

In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

Court may reject plaint, if it do not contain the required particulars, &c.

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

31. If it appear to the Court that the claim is improperly valued, or being properly valued that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if it appear to the Court that plaintiff has no cause of action or that right of action is barred by lapse of time.

32. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint.

Amendment of plaint.

Provided that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

33. If it appear to the Court that the cause of action did not arise, or that the defendant is not dwelling or personally working for gain within the limits of the jurisdiction of the Court, or, if the claim relate to land or other immoveable property, that such land or other property is not situate within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

Security for costs to be furnished by plaintiff at the time of presenting the plaint, if he resides out of the British territories in India.

34. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs

that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Plaint to be rejected if security be not furnished.

35. If in any stage of a suit it shall appear to the Court that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Security for costs may be required in any stage of suit, if it appear that plaintiff resides out of India.

36. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Appeal from order rejecting plaint.

37. If the suit be for land or other immoveable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

Proceeding in a suit for immoveable property in different jurisdictions.

38. If the Court consider the plaint admissible, the particulars mentioned in Section 26 shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the ntries shall be numbered in every year according o the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A) hereunto annexed.

When the plaint is admissible, particulars to be entered in a Register.

Form of the Register.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and hall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other ook, the plaintiff shall produce the book to the Court together with a copy of the entry on which e relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the opy with the original, shall return the document o the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit, without the sanction of the Court.

Written document to be produced in Court when plaint is presented.

And copy filed with plaint.

Original to be marked and returned.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

Document not produced when plaint filed, to be inadmissible in evidence.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document in possession of defendant.

Of Summoning the Defendant.

41. When the plaint has been registered, a summons under the signature of the Judge and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly

On plaint being registered, summons to issue to defendant.

Summons to be either to settle the issues, or for the final disposal of the case.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff.

If resident within 50 miles.

Or within the local jurisdiction of the Court.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

Form of summons.

44. The summons shall be in the Form contained in the Schedule (B) hereunto annexed or to the like effect.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company.

46. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit.

SERVICE OF SUMMONS ON THE DEFENDANT.

Summons shall be served by Officer of Court.

47. The summons shall be delivered to the Nazir or other proper Officer of the Court to be served by himself or one of his subordinates, and such Officer shall be responsible for its due service.

How service shall be made.

48. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

When there are several defendants.

Service to be on defendant in person, when practicable.

Service on agent sufficient.

49. Whenever it may be practicable the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Who may be an agent to receive service.

50. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Appointment of such agent to be in writing and to be filed in Court.

51. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Agent of Government.

52. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

If defendant cannot be found, and has no agent, service may be made on a male member of his family.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

In all cases the person served is to be required to endorse the summons.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

But service is sufficient without.

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor and other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If defendant do not dwell in the place mentioned, the summons shall be returned with an endorsement of non-service.

Proviso.

If served, time and manner of service to be endorsed on summons.

56. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When service is substituted, the time for appearance to be fixed.

58. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

How the summons is to be served when the defendant is resident within the jurisdiction of another Court and has no agent to accept service.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be

re-transmitted to the Court from whence it originally issued.

How the summons is to be served when the defendant resides out of the British territories in India and has no agent to accept service.

60. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

Time for appearance.

In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

In suits for immoveable property, service may in certain cases be made on agent in charge of such property.

61. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service may be made on Government Servants.

62. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the Office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on Officers and Soldiers.

Service on a Corporation or Company.

63. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

In what case a letter may be substituted for a summons.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Proof of due service and delivery of summons, letter, &c. transmitted through the post.

66. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII of Act XVII of 1854 *(for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office)*, shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

Of Suits against Government and Public Officers.

In suits against Government, summons to be served on Government Pleader.

67. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

Appearance and answer.

In suits against Government Officers for alleged official acts, summons to be served on them.

68. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time to enable Officer to make a reference to Government.

69. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that a note of his appearance be entered in the Register.

70. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such motion be made, case to proceed as in a suit between private parties

But defendant not liable to arrest before judgment.

71. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

How Persons not before the Court may be made Parties to a Suit.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Of Arrest before Judgment.

In suits for moveable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.

74. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail.

76. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court, under the provisions of this Section, shall be open to appeal by the defendant.

Appeal.

Deposit in lieu of bail.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody if he cannot give security.

78. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree, if the Court shall so order.

Compensation to defendant arrested on insufficient grounds.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

Proviso as to amount.

When the defendant is about to leave India, the application to be made to the Court.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

OF ATTACHMENT BEFORE JUDGMENT.

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application how to be made.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order.

Withdrawal of attachment.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

How the attachment is to be made.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money.

Appeal.

Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Claims to property attached before judgment, how to be investigated.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed when security is furnished.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of the attachment.

Compensation for attachment applied for on insufficient grounds, &c.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property.

Proviso.

Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Court may stay the sale of property already under attachment, when execution of a decree fraudulently obtained is applied for.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Special case in which party may be put in immediate possession of land the subject of suit.

91. Whenever lands paying revenue to Government or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the Bengal Code *(to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars &c.)* form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or the rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the

lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

Of Injunctions.

Cases in which an injunction to stay waste &c. may be granted.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper. If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such receiver.

Or in which a receiver or manager may be appointed.

When the Collector may be appointed receiver or manager.

In suits to restrain breach of contract &c.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction to restrain the defendant from the repetition, or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always that any order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Injunction to restrain repetition or continuance of breach.

Proviso.

Appeal.

94. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting injunction, Court may direct reasonable notice to be given to the opposite party.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of injunction.

96. If it shall appear to the Court that the injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Proviso.

Of the Withdrawal and Adjustment of Suits.

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or compromise.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp duty paid on the plaint if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been

Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted.

examined. Provided however that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

Proviso.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

Suit not to abate by death in certain cases.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survives.

100. If there be two or more plaintiffs or defendants and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs, where the cause of action accrues to the survivor and the representative of the deceased.

101. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

102. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable cost which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants or of a sole or sole surviving defendant.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

Marriage of a female plaintiff or defendant not to abate the suit.

105. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the Assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the Assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Of Notices to produce, and how they are to be served.

Two notices in writing to be delivered to the proper Officer of the Court.

107. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required under the pro-

visions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other *proper Officer*, to be served upon such party.

Service of notices and other judicial process how to be made on a party who has not appointed a pleader to act for him.

108. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

OF THE APPEARANCE OF THE PARTIES, AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear either in person or by a pleader when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the rules for the limitation of actions; or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

If plaintiff only appear, Court may proceed *ex parte* if due service of summons be proved.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If defendant appear on day of adjourned hearing, and assign good cause for his previous non-appearance, he may be heard.

If plaintiff only appear and due service of summons be not proved, Court may order issue of second summons.

112. If the plaintiff shall appear in person or by a pleader and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and service of summons be proved, but the service was not in due time, Court may adjourn hearing and direct notice to be given to defendant.

113. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court and may direct notice of such day to be given to the defendant.

If defendant only appear, Court to pass judgment by default against plaintiff, unless defendant admit the claim.

114. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

No fresh suit after such judgment.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

Consequence of non-appearance of one or more of several plaintiffs.

116. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared; and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in

Consequence of non-appearance of one or more of several defendants.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause shown, of any party to a suit summoned or ordered to appear in person.

118. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

119. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No appeal from judgments passed *ex parte* or by default.

When and how judgment *ex parte* against a defendant may be set aside.

When and how judgment by default against a plaintiff may be set aside.

No judgment to be set aside, without notice to opposite party.

Order for setting aside judgment shall be final.

In appealable cases, an appeal from order of rejection.

Proviso.

Of Written Statements.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered by the parties at the first hearing of the suit.

Written statements to be on stamp paper.

121. If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

Particulars of set-off to be given in a written statement.

Abandonment of excess of set-off over claim.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

No written statement to be received after first hearing unless called for by the Court.

Court may at any time call for a written statement.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

How written statements are to be framed.

Written statements to be subscribed and verified.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative or unnecessarily prolix, or that it contains matter irrevelant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Court may reject a written statement which is argumentative, prolix, or irrelevant.

Of the Examination of the Parties.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oral examination of party &c.

Oath.

Substance of the examination to be written.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal of a party to answer.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer, if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

Of the Production of Documents.

128. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Documentary evidence to be produced at first hearing.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Exhibits to be received and inspected by the Court.

Rejection of exhibits.

130. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under any Regulation or Act for the time being in force, and it shall appear to the Court that the deed, instrument, or writing, although written on stamp paper, does not bear a sufficient stamp, the Court shall nevertheless receive the same in evidence, saving all just exceptions on other grounds, if the party producing it or requiring its production shall pay into Court the deficiency of the stamp duty and a penalty equal to ten times the amount of the deficiency. Provided that, if it shall appear to the Court that there are reasonable grounds for believing that the deed, instrument, or writing was not properly stamped with the intention of evading the stamp laws, the Court may reject the same.

Documents insufficiently stamped may be received on payment of deficient duty and penalty.

Proviso.

131. An entry of the fact of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of such deed, instrument, or writing under the signature of the Judge of the Court. The Court shall at the end of every month make a return to the Collector of Revenue of the District of the monies (if any) which it has so received by way of duty or penalty, distinguishing between such monies, and stating the number and title of the suit, and the name of the party from whom such monies were received, and the date (if any) and description of the document, for the purpose of identifying the same; and the Court shall pay over the said monies to the Collector of Revenue, or to such person as he may appoint to receive the same; and the Collector of Revenue or other proper authority shall, upon production of the deed, instrument, or writing, with the endorsement hereinbefore mentioned, cause such additional stamp as may be necessary to be affixed to such deed, instrument, or writing in respect of the sums so paid as aforesaid.

Account of monies so received to be kept.

Monthly return to be made to Collector.

132. When an exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Admitted exhibits to be marked and filed.

Proviso.

133. No stamp duty shall be leviable in respect of the production or filing of any exhibit, anything contained in any Regulation or Act notwithstanding.

No stamp duty in respect of the production or filing of exhibits.

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who

Rejected exhibits to be marked and returned.

produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

Unless detained by the Court.

135. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

136. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Exhibit may be returned before the time limited for special reasons.

Certified copy to be kept.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Receipt to be given for returned exhibit.

138. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which would be contrary to good policy) and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Court may send for papers from its own records or from other public Offices or Courts.

Except State papers.

Of the Settlement of Issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

Framing of issues.

140. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

Court may examine witnesses or documents before framing the issues.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues.

Additional issues.

Of Issues by Agreement of Parties.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

143. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Court, if satisfied that the agreement was executed *bonâ fide*, may decree accordingly.

When the Suit may be disposed of at the First Hearing.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are not at issue on any question of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may

If the parties are at issue on questions of law or fact.

be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require. Provided that if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

Court if satisfied may determine the issues and give judgment.

Proviso where summons is for final disposal.

Of Adjournments.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

Court may grant time, or adjourn to a future day.

Proviso.

147. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How Court is to proceed if the parties fail to appear on the day fixed.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Court to proceed if either party fail to produce proofs or witnesses.

Of summoning Witnesses.

149. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

Application for summons.

150. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding.

No stamp duty on application for summons.

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Expenses of witnesses to be paid before issue of summons.

Scale of expenses.

Tender of expenses to witness.

If sum be not sufficient.

Expenses if witness is detained.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place, and purpose of attendance to be specified in summons.

153. Any person whether a party to a suit or not may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce a document.

Service of Summons on a Witness.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How and when the summons shall be served.

Service to be on the witness, or a male member of his family.

156. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult male member of his family residing with him.

When the summons cannot be served, it is to be returned to the Court.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

Time and manner of service to be endorsed on the summons.

157. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when, and the manner in which it was served.

How a summons on a witness who resides in another jurisdiction is to be served.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

When a witness absconds, his property may be attached.

159. If the summons for the attendance of any person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

How the Court is to proceed with the witness on his appearance.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such notice of the proclamation in time to attend as aforesaid, the Court shall release the property from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Of the Examination of Parties as Witnesses.

A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application to be made for the examination of a party as a witness.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court shall receive a written declaration in support of the cause shown.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If no sufficient cause be shown, summons to issue.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may of its own accord in any stage of the suit cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court, or

may cause such party to be examined in such other manner as the Court may direct.

ATTENDANCE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

Persons summoned to give evidence must attend.

167. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by a witness.

168. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155, shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to give evidence.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence though not summoned.

171. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witnesses to be examined at the hearing of the suit in open Court.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by, or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination. In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall

In what form evidence shall be taken in appealable cases.

In what case deposition to be interpreted.

When evidence may be taken in English.

Objection made to questions.

Memorandum of substance of the evidence to be made by Judge as each witness is examined.

In what form evidence shall be taken in cases not appealable.

form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

If Judge be unable to make a memorandum of the evidence, reason of inability to be recorded.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

A witness may for sufficient cause be examined immediately.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Witness to be examined upon oath or affirmation, or according to the law for the time being in force.

Of Commissions to examine absent Witnesses and make Local Enquiries.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

Cases in which Court may issue a Commission to examine witnesses.

When the witness resides within the Court's jurisdiction.

When the witness resides beyond the Court's jurisdiction, and not within the Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is within the local jurisdiction of the Supreme Court.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When the witness is not within the jurisdiction of the Sudder Court or the Supreme Court, but within the British territories or the territories of any Native Prince or State in alliance with the British Government.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

When the witness is beyond the said territories and not within the territories of any Native Prince or State in alliance with the British Government.

179. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined there-under, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission, in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the

Commission to be returned with the depositions of the witnesses.

When depositions may be read in evidence.

Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

Commission for local investigations.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or, if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

The report and depositions to be taken as evidence in the suit, but the Commissioner may be examined in person.

A Commissioner may be appointed to investigate and adjust accounts.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

In cases of local investigation or investigation into accounts, expenses of Commission to be paid into Court, before issue thereof.

182. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

Of Judgment and Decree.

When judgment is to be pronounced.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment to be written in the vernacular language of the Judge.

Proviso.

184. The judgment shall be written in the vernacular language of the Judge. Provided that if the vernacular language of the Judge be not English and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment what to contain.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court the judgment shall be translated into the language in ordinary use in the Court, and the translation shall also be signed by the Judge.

Judgment to be translated.

Court to state its decision on each issue.

Proviso.

186. In all suits in which issues have been framed the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Judgment to direct by whom costs are to be paid.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

What is included under the denomination of costs.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners either in taking evidence or in local investigations or in investigations into accounts.

Decree.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree for the recovery of a portion of immoveable property.

190. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for the delivery of moveable property.

191. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for damages for breach of contract.

192. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

193. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest to be paid on the principal sum adjudged from the date of suit to the date of payment at such rate as the Court may think proper.

Payment by instalments.

194. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

If set-off be allowed.

Effect of decree.

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.

196. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decree-holder with interest thereupon at such rate as the Court may think proper.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

197. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper.

CHAPTER IV.

Execution of Decrees.

Decree for immoveable property.

199. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for moveable property, performance of contract, or alternative.

200. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

201. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder

Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decree against representatives of deceased persons.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against sureties.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

What property liable to attachment and sale in execution of a decree.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Payment of monies under decrees &c.

206. All monies payable under a decree shall be paid into the Court, whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct.

Adjustment of decree to be made through the Court.

No adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Application for Execution.

Application for execution how to be made.

207. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred from original decree-holder to another person.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

If the person against whom a decree is made shall die before execution, application may be made against his legal representative or estate.

210. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

Decree how to be executed against legal representative.

211. If the decree be ordered to be executed against the legal representative it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief

granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars when the application is for an attachment of immoveable property.

213. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of moveable property may be general, or may be accompanied with an inventory of the property to be attached.

214. Where the application is for an attachment of the defendant's moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

Procedure on receiving the application.

215. The Court, on receiving any application for execution of a decree, containing the particulars above mentioned, or such of them as may be applicable to the case, shall cause the same to be compared with the original decree contained in the record of the suit, and if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made in the Register of the suit. If the particulars shall not be found to correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In certain special cases, notice to show cause why the decree should not be executed shall be issued.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Procedure after issue of notice.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

218. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries as to the property to be attached.

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Rules applicable to the summoning and examination of parties and witnesses after judgment.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

ISSUE OF THE WARRANT.

Warrant when to issue.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper Officer

of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper Officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Of the execution of Decrees for Immoveable Property.

How immoveable property is to be delivered when in the occupancy of a defendant or of some person under him.

223. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How it is to be delivered when in the occupancy of ryot.

224. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of share how to be made.

225. If the decree be for the division of an estate or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government.

Obstruction to execution of decree for immoveable property.

226. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint and shall summon the party against whom the complaint is made to answer the same.

Obstruction by defendant.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

How defendant may be dealt with, if he persists in obstructing the complainant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

Obstruction by a *bonâ fide* claimant other than the defendant.

229. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases if person dispossessed of immoveable property dispute the right of decree-holder to be put into possession of such property.

230. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

231. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject to appeal

under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

OF THE EXECUTION OF DECREES FOR MONEY BY ATTACHMENT OF PROPERTY.

Attachment of property in execution of decree for money, to be as follows.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of moveable property in possession of defendant, by seizure.

233. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other Officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by prohibitory order of moveable property, to which defendant is entitled subject to a lien.

234. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment of immoveable property by prohibitory order.

235. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of debts not being negotiable instruments, and of shares in public Companies &c., by prohibitory order.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment until such further order.

Attachment of money or securities in deposit in a Court of Justice or with a Government Officer, by notice.

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

Attachment of negotiable instruments by seizure.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other Officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

When the attachment is by prohibitory order, how the order is to be made known.

239. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the Office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper Officer of the Company or Corporation.

Any private alienation of property after attachment to be null and void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment by a debtor who has been prohibited from making payment to his creditor.

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court and such payment shall have the same effect as payment to the party entitled to receive the debt.

The Court may direct money or bank-notes to be paid to the plaintiff;

242. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall con-

sist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

Or other attached property to be sold, and proceeds to be paid to him.

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this Section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

Where the property attached consists of debts or immoveable property, a manager may be appointed.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

Manager to render accounts.

244. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

On security being given.

245. If the amount decreed with costs and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of the decree.

Of Claims to Attached Property.

246. In the event of any claim being preferred to, or objection offered against the sale of lands or any other immoveable or moveable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

How claims and objections to sale of attached property are to be investigated.

247. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Claims and objections should be preferred at the earliest opportunity.

Of Sales in execution of Decrees.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint

Sales to be by public auction.

and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Exception as to negotiable securities and shares in public Companies.

Sale by Collector of lands paying revenue to Government.

249. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Notification of sales by public auction.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

The process for attachment and sale may in certain cases be issued simultaneously.

251. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Mode of payment on sale of moveable property.

252. No irregularity in the sale of moveable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Irregularity not to vitiate sale of moveable property, but any person injured may recover damages by suit.

253. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Deposit by purchaser in case of sale of immoveable property.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

When full amount of purchase money to be made good.

Procedure on default.

Defaulting purchaser answerable for loss by re-sale.

255. Every re-sale of immoveable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Notification on re-sale of immoveable property.

256. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Confirmation of sale.

257. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

When the order to set aside a sale shall be open to appeal.

shall be precluded from bringing a suit for establishing his claim.

If the sale be set aside, price to be returned to purchaser.

258. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

Certificate to be granted to the purchasers of land.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to state the name of actual purchaser.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in the possession of defendant.

261. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien.

262. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendants, &c.

263. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery o immoveable property in the occupancy of ryots, &c.

264. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities of which actual seizure has been made.

266. Where the property sold shall consist of negotiable securites of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"A. B. by C D. Judge of the Court of *(or as the case may be)*; in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228 relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given

shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of property attached.

270. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

271. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that,

Proviso where property is sold subject to a mortgage.

when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose if such other decree be a decree of that Court, or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Of Arrest in execution of Decrees for Money.

On what grounds, application for discharge may be made.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner herein before prescribed for subscribing and verifying plaints.

Form of application.

Verification.

Procedure on application.

274. Upon such application being made, the Court shall examine the applicant in the presence of the plaintiff or his pleader as to his then circumstances, and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant making the necessary deposit for paying the fees of such Officer; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or surties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Defendant liable to be again arrested if proved guilty of fraudulent concealment of property, &c.

275. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the execution of Decrees by Imprisonment.

Subsistence-money of a defendant in gaol how fixed and furnished.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above direct-

ed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Imprisonment not to be longer than 2 years.

6 months if decree for money not exceeding 500 Rs.

3 months if not exceeding 50 Rs.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence-money to be added to amount of decree.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application may be made for discharge on a surrender of the whole of the debtor's property.

281. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts abovementioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Procedure on such application.

Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

and he may be further dealt with criminally.

282. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

Though the defendant be discharged, his property is liable for the decree.

283. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, shall be determined by order of the Court executing the decree and not by separate suit; and the order passed by the Court shall be open to appeal.

How questions regarding amount of mesne profits and interest, and sums paid in satisfaction of decree, are to be determined.

Of Execution of a Decree out of the Jurisdiction of the Court by which it was passed.

284. A decree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

How a decree of one Court may be executed within the jurisdiction of another Court.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed, to the Court by which the applicant may wish the decree to be executed.

Application for such execution.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant: that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Copy of decree and order for execution to be transmitted.

287. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Decree, or order transmitted, to be executed as that of the Court.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; provided that such Court shall have no power to inquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution or order restitution of property or discharge of defendant.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from or impose such conditions upon the defendant as it may deem reasonable.

Before staying execution, Court may require security from, or impose conditions upon defendant.

292. Any order of the Court in which the decree was passed or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

293. No discharge of a defendant under the provisions of Section 290 shall prevent him from being re-taken in execution of the decree.

Liability of defendant discharged, to be re-taken.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

What appeal from orders for execution under this Act.

295. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command and delivered, according to the exigency of the warrant, to the Civil Officer charged with the execution thereof.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

296. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money which may be ordered by a Civil Court in any Civil proceeding.

Rules contained in this Chapter to be applicable to all Civil process.

CHAPTER V.

Of Pauper Suits.

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

Suits may be brought *in formâ pauperis*.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

What suits excepted.

299. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

300. The petition shall contain the particulars required by Section 26 of this Act, in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Petition what to contain.

301. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if

How to be presented.

the petitioner be a female, who, according to the custom and manners of the country ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of petitioner, if a female, how to be taken.

302. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

Petition to be rejected if not in form.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

If in form, Court how to proceed.

If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Court may reject the application.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

Notice to opposite party.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

After a summary enquiry, the Court to pass a final order.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Court may direct a local enquiry.

308. If the application of the petitioner be granted pauperum paraquum ed, it shall be registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

Course of proceeding to be observed, if application be admitted.

309. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

On the decision of the suit, costs how to be calculated.

310. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

311. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

No appeals from orders under this Chapter.

CHAPTER VI.

Reference to Arbitration.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Reference to arbitration on application of the parties.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Application how to be made.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Nomination and appointment of arbitrators.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

Order of reference.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

When the reference is to two or more, the order shall provide for difference of opinion.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Powers of arbitrators.

318. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

Extension of time for making award.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators or umpire so appointed, shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

In case of death, incapacity, or refusal to act of arbitrators or umpire, Court may appoint others in stead.

320. When an award in a suit shall be made either by the arbitrator or arbitrators, or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Award how to be submitted to Court.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Arbitrator may state special case.

322. The Court may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Court may, on application, modify or correct an award in certain cases.

And make order respecting the costs of arbitration.

323. In any of the following cases the Court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

In what cases Court may remit the award or any of the matters referred to arbitration, for re-consideration.

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

324. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given decree shall follow and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Judgment to be according to the award.

Agreement of parties to refer to arbitration may be filed in the Court.

326. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon.

Provisions of this Chapter applicable.

The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may within six months from the date of the award make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

Enforcement of such award.

CHAPTER VII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How questions may be raised for the decision of a Civil Court by any Persons interested.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement, which shall be subject to the same stamp duty as prescribed for plaints in suits, that upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing, or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to the Court's jurisdiction.

330. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

331. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try, or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER VIII.

Of Appeals.

Appeal to lie from all decrees except when expressly prohibited.

332. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of the Court.

Appeal to Sudder Court to be heard by three or more Judges.

How Appeals are to be preferred.

Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time.

333. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

What the memorandum is to contain.

334. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

Form of memorandum.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff.
(Name, &c. as in Register.) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the Sudder Court at [or Zillah Court at be], as the case may be] against the decree of in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree if it proceed on a ground common to all.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

Of staying and executing Decrees under Appeal.

Execution of decree not to be stayed by appeal; but if sufficient cause be shown, execution may be stayed.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

Court, before making order to stay execution, shall require security for due performance of decree or order of Appellate Court.

Court making an order for execution of a decree against which an appeal has been preferred, may require security for restitution of property, &c.

339. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court.

No such security to be required from Government or any Public Officer.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public Officer.

Of procedure in Appeals from Decrees.

How the appeal is to be entered.

341. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper Officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Form of the Register.

Appellate Court may, at its discretion, require security for costs from appellant.

342. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer.

Proviso.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

Appellate Court to send intimation to Lower Court of appeal being registered.

343. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in

Lower Court to transmit papers to Appellate Court.

the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice and shall be deposited in the Lower Court.

Either party may give notice of exhibits of which he requires copies to be made and deposited in the Lower Court.

344. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Day for hearing the appeal, how to be fixed.

345. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Publication and service of notice of the day fixed for hearing the appeal.

Form of notice.

346. If on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Consequence of non-appearance.

347. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court which he might have taken if he had preferred a separate appeal from such decision.

Respondent may object to decision of Lower Court in the same manner as if he had preferred a separate appeal.

349. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

The Appellate Court how to give judgment.

350. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reversed or modified nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

No decision to be reversed for irregularity.

351. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register and proceed to investigate the merits of the case, and pass a decree therein.

When a case may be remanded by Appellate Court.

352. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

Power to remand limited as above.

353. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

When the evidence is sufficient, the Appellate Court must determine the case though the Lower Court has decided on other grounds.

354. If the Lower Court shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

Trial of issues by Lower Court on reference from Appellate Court.

355. It shall not be competent to the parties to an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses, but if it appear that the Lower

When the Appellate Court may call for fresh evidence.

Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not; provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

How additional evidence is to be taken.

356. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court or to empower any person to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

Points to be defined.

357. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

Powers of Appellate Court.

358 The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the suit, examining the parties or their pleaders, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

Judgment of the Appellate Court. In what language it is to be written.

359. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writing, which shall form part of the record.

Dissent to be recorded.

What the decree is to contain.

360. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy of the decree to be transmitted to the Lower Court.

361. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

How to be executed.

362. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Appeals from Orders.

No appeal from order passed before decree, but error or defect therein may be set forth as an objection if the decree be appealed against.

363. No appeal shall lie from any order passed in the course of a suit and relating thereto prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order passed after decree and relating to the execution thereof except as provided.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

365. All orders as to fines or the levying thereof or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

Of Appeals in Forma Pauperis.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from

such decision subject to all the rules contained in the last preceding Chapter and in Chapter V in so far as they are applicable.

Application to whom and when to be presented.

368. The application to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

369. The application shall contain the particulars required to be set forth in the memorandum of appeal and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any moveable or immoveable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

Procedure.

370. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

Effect of order by Appellate Court.

371. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

CHAPTER X.

Of Special Appeals.

Special appeals allowed on what grounds.

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

Application to be presented to the Sudder Court.

373. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX in respect to appeals from decrees *in formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

Application how to be dealt with.

375. If the application be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. hereunto annexed and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals so far as the same may be applicable.

CHAPTER XI.

Review of Judgment.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from

On discovery of new evidence &c.

the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree.

Within what time and on what paper the application should be made.

377. The application shall be made within ninety days from the date of the decree unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for

not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

The order of the Court for granting or refusing the review is final.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Proviso.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

379. If the Court to which the application for a review of its judgment has been presented by a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application for a review being granted.

380. When an application for a review of judgment is granted, a note thereof shall be made in the Register of Suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

CHAPTER XII.

MISCELLANEOUS.

Sudder Court empowered to make rules of practice &c., for the Subordinate Civil Courts.

381. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Subordinate Civil Courts, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Provided such rules are not inconsistent with this or any other law.

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts.

382. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of Village Moonsiffs and Village or District Punchayets in Madras—

of Military Courts of Request—

of single Officers appointed to try small suits in Madras and Bombay.

Troops of those

and of Military Punchayets in Madras.

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of certain special or local Laws.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code *(for vesting certain Jagheerdars, Surinjameedars, and Enamdars with the power of deciding suits within the boundaries of their respective estates)* and Act XV of 1840 *(for extending Regulations XV. 1827 and XIII. 1830 of the Bombay Code to the Agents of Foreign Sovereigns)*, or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code *(for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack)*, or cases of the nature defined in Regulation XXIX. 1827 *(for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh)*, Regulation VII. 1830 *(for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country)*, Regulations I and XVI. 1831 of the Bombay Code *(for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned)*, Act XIX of 1835 *(relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan)*, and Act XIII of 1842 *(to enable the holders of revenue which has been alienated to them by the state to collect that revenue within the Presidency of Bombay)*, except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the *Gazette*.

Act not to take effect in places not subject to the general Regulations until extended thereto.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that to is say)—

Interpretation.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include females.

Gender.

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a District for the purposes of this Act; and the words "District Court" shall mean such Court.

"District."

"District Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.

"Sudder Court."

387. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859 and in the Presidencies of Madras and Bombay from the 1st day of January 1860 or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if in any suit pending at the time when this Act shall come into operation it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Commencement of operation of Act.

Pending suits.

388. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall be regulated by this Act, and except as otherwise provided by this Act, by no other Law or Regulation.

Where Act comes into operation, procedure of Civil Courts to be regulated by it only.

SCHEDULE A. referred to in the foregoing scheme of Procedure.

Court of the ____ holden at ____ of ____

Register of Civil Suits in the year 18

Date of presentation of plaint.	No. of Suit.	Plaintiff.				Defendant.				Claim.			Appearance.			Judgment.			Appeal.			Execution.					Return of Execution.		
		Name.	Description.	Place of abode.		Name.	Description.	Place of abode.		Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of Order.	Against whom.	For what, and Amount of Money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment of Money and Date of every such Return.

SCHEDULE B.

No. of Suit.

In the Court of at

Plaintiff.

Defendant.

(Name, description, and address.)

Whereas [*here enter the name, description, and address of the Plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person, state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C. to the foregoing scheme of Procedure.

Court at

Register of Appeals from Decrees in the year 18 .

Date of Memorandum.	No. of Appeal.	Appellant.				Respondent.			Decree appealed from.					Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Description.	Name.	Place of abode.	Description.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D. to the foregoing scheme of Procedure.

Sudder Court at

Register of Special Appeals.

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree appealed from.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

W. Morgan,
Clerk of the Council.

THE 2ND APRIL 1859.

THE following Bill was read a second time in the Legislative Council of India on the 26th March 1859, and was referred to a Select Committee who are to report thereon after the 6th of June next :—

A Bill to regulate the appointment, employment, and dismissal of Village Watchmen in the Territories under the Government of the Lieutenant-Governor of Bengal.

Preamble.

WHEREAS it is expedient to regulate by enactment the administration of the rural police ; It is enacted as follows :—

Number of village watchmen.

I. In default of any special rule or custom, the requisite number of village watchmen shall be held to be one watchman for every hundred houses. Where villages are small and scattered so that one man cannot watch one hundred houses, the number of watchmen relatively with the number of houses may be increased by the Magistrate with the approval of the Commissioner ; provided always that a watchman shall not be appointed to fewer than sixty houses.

Nomination of village watchmen.

II. The nomination of village watchmen shall rest with those who have heretofore nominated them, whether Zemindars, Gomastahs, or village headmen, or villagers. If they fail to nominate on the requisition of the Magistrate, or if their nomination shall be disapproved by the Magistrate, and shall not be cancelled on requisition by the Magistrate, the Magistrate shall nominate, and his nomination shall be final.

Responsibility of appointing or paying watchmen, if disputed, by whom to be determined.

III. If it be disputed with whom the responsibility of appointing, or of paying a village watchman lies, the Magistrate, after hearing all the parties concerned, shall determine. The decision of the Magistrate shall be open to appeal within thirty days to the Commissioner, whose decision shall be final.

Remuneration of watchmen.

IV. The proper pay of a village watchman shall be held to be not more than five, and not less than three Rupees per mensem. Whatever has been the nature of the remuneration of a watchman, whether by land, or money, or clothes, or grain, the nature of such remuneration shall not be changed without the consent of the payers, but the Magistrate shall encourage payment in money, and whatever the nature of the remuneration, the total value of the same shall not be less than three Rupees per mensem for each watchman.

If remuneration falls short of three Rupees per mensem.

V. If the sum hitherto paid by the inhabitants of a watchman's beat does not amount to three Rupees per mensem, the Magistrate may cause the parties responsible to make good that sum, or may amalgamate such watchman's beat with the beat of another watchman or other watchmen, and make the pay of the watchman dispensed with payable to such other watchman or to such other watchmen in such portions as may appear proper. The decisions of a Magistrate under this Section shall not be appealable by right to the Commissioner, but the Commissioner shall have authority to call for the Magistrate's proceedings in any such cases in which he may see cause to interfere, and to pass such orders as he may deem proper.

Punchayet.

VI. In places where the village watchmen are paid by the inhabitants, circles of villages shall be formed comprising about one thousand houses, and in every circle there shall be a Punchayet of five respectable persons, to be elected every third year by the inhabitants. If any member of a Punchayet shall die, or resign, or become disqualified, his place shall be filled up by the election of another person by the inhabitants.

Assessment of cess.

VII. The Punchayet shall determine the cess necessary for the payment of the village watchmen, and shall cause a statement of the sum payable by each inhabitant to be prepared and forwarded to the Thannah where it shall be hung up in a conspicuous place for fifteen days. Any party dissatisfied with the assessment imposed on him may appeal to the Magistrate whose order shall be final.

Collection of tax.

VIII. *Clause* 1. The Punchayet shall collect the tax monthly, and pay it to the watchmen, and forward their receipts to the Darogah If any party fail to pay the tax assessed on him for the period of two months, the Punchayet shall, through the Darogah, report the defaulter to the Magistrate. The Magistrate shall issue a summons to the defaulter to appear in person before him, and show cause why attachment should not issue. Should the party fail to appear, or appearing, fail to show good cause for not paying the arrear, the Magistrate shall, by warrant to the Darogah of Police to whom such watchman may be subordinate, cause the amount due, with costs, to be recovered by distress and sale of any goods and chattels belonging to or found on the premises of the defaulter.

If defaulter be an absentee land holder.

Clause 2. Or if, by reason of the defaulter being an absentee land-holder, the realization of the arrear by means of summons and attachment is impracticable, it shall be competent to the Magistrate to call on the Collector to levy the arrear, and the Collector shall levy the sum called for by the Magistrate as he would levy an arrear of revenue due by such absentee land-holder. There shall be no appeal of right from the orders of a Magistrate under this Section, but they shall be subject to the review of the Commissioner as provided for in Section V.

Appointment of one or more watchmen may in certain cases be dispensed with.

IX. It shall be lawful for a Magistrate, when he may consider it conducive to the efficiency of the Police, to dispense with the appointment of one or more watchmen, and to cause the money leviable as the pay of the watchman or watchmen dispensed with to be paid to another watchman with a view to the increase of the pay of such watchman, and to his appointment as a head watchman

X. It shall be lawful for a Magistrate, whenever he may consider it needful to collect the watchmen of several contiguous villages or beats in order to the establishment of a watch-post, and to make one of the watchmen so collected head of the watch-post, and to place several contiguous villages or beats under such head watchman, and to make such head watchman and the watchmen placed under him, answerable for the peace of all the villages or beats included in the tract of country under such watch-post.

Magistrate may collect watchmen of several villages to form a watch-post.

XI. Should the parties responsible for the appointment of a watchman desire the removal of an incumbent, and the appointment of a another watchman in his place, they shall apply to the Magistrate, either through the Darogah of Police, or direct, and the Magistrate shall comply with their request, or reject the application, as he may think proper, and his order shall be final. It shall be competent to a Magistrate, whenever he may think it necessary, to dismiss a village watchman from employment, and to direct the parties responsible, to appoint another watchman in the room of the watchman dismissed, and his order shall be final.

Removal of watchmen.

XII. Any village watchman who may be convicted before a Magistrate of any wilful neglect or misconduct in the discharge of his duty as a Police Officer, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment with or without hard labor for a period not exceeding one month, or to both, provided that he shall not be so liable if he shall have been punished for the same act as a criminal offence. Provided further that punishment for neglect shall not bar prosecution for a criminal offence should it be found that a village watchman, besides neglecting his duty as a watchman, has committed a criminal offence.

Punishment for watchmen guilty of neglect or misconduct.

XIII. It shall be lawful for a Magistrate to cause such a percentage from the aggregate sum collected for the pay of watchmen as shall suffice to pay the Officers necessary to make the collections, conduct the disbursements, and keep the accounts, to be set apart for that purpose.

Renumeration of collecting Officers.

XIV. It shall be lawful for the Magistrate to assign any of his duties under this Act to a Joint, or Deputy, or Assistant Magistrate.

Magistrate may assign any of his duties under this Act to a Joint, Deputy, or Assistant Magistrate.

XV. It shall be lawful for the Government of Bengal, to appoint a Commissioner or Commissioners for settling the liabilities of landowners, headmen, villagers, &c., in respect to the appointment of village watchmen under this Act, and to vest such Commissioner or Commissioners with the powers of a Magistrate in that behalf.

Appointment of Commissioners.

W. MORGAN,
Clerk of the Council.

Home Department.

No. 708.

Fort William, the 5th April 1859.

Mr. F. F. Hogg, of the Civil Service, reported his return from leave to England on Medical Certificate on the 31st ultimo, by the Peninsular and Oriental Steam Navigation Company's Steamer *Nubia*.

No. 709.

Mr. F. B. Simson, of the Civil Service, was permitted to proceed to Europe on Furlough, on Medical Certificate, for a period of three years, on the 4th October last.

No. 710.

His Excellency the Governor General in Council is pleased to appoint Mr. W. Grey to be Secretary to the Government of India in the Home Department.

CECIL BEADON,
Secy. to the Govt. of India.

Foreign Department.

No. 1603.

Fort William, the 31st March 1859.

Brigadier General G. St. P. Lawrence, Agent to the Governor General for the States of Rajpootana, has obtained leave of absence for one month, from the date on which he may avail himself of it, preparatory to obtaining Furlough to Europe, under Medical Certificate.

No. 1604.

The 2nd April 1859.

The Reverend H. W. Crofton, Officiating Chaplain of Rangoon, is appointed Chaplain of that Station.

No. 1605.

His Excellency the Governor General in Council is pleased to appoint Lieutenant W. F. Edwards, of the 45th Bengal Native Infantry, to be Second in Command of the Malwa Bheel Corps.

No. 1606.

The 5th April 1859.

His Excellency the Governor General in Council is pleased to appoint Mr. Cecil Beadon to be Secretary to the Government of India in the Foreign Department.

No. 1607.

Assistant Surgeon Kelsall, of Her Majesty's 20th Regiment, is appointed to the Medical charge of the Civil Station and Military Police at Goorda, Oudh, with effect from the 20th February last.

No. 1608.

Lieutenant R. E. Oakes, Assistant Revenue Surveyor, is appointed to the charge of the 1st or Eastern Division, Nagpore Survey, during the absence on leave of Captain Vanrenen, or until further orders.

No. 1609.

Captain T. H. Chamberlain, Assistant-General Superintendent of Operations for the Suppression of Thuggee and Dacoitee, assumed charge of his duties at Lucknow, on the 21st ultimo.

No. 1610.

The appointment of Lieutenant L. H. E. DeH. Larpent to be District Adjutant of the Oudh Military Police, as notified in General Order No. 496, dated the 20th January last, is hereby cancelled.

No. 1611.

His Excellency the Governor General in Council is pleased to grant to Mr. T. H. Kavanagh, Assistant Commissioner in Oudh, leave of absence for one year to proceed to England, under Section IX. of the Uncovenanted Absentee Rules, with one month's preparatory leave to proceed to the port of embarkation.

No. 1612.

His Excellency the Governor General in Council is pleased to grant to Lieutenant W. R. Shakespear, 1st Assistant to the Agent to the Governor General for Central India, leave of absence for six months, to proceed to Europe, under Rule IX. of the new Furlough Regulations.

R. SIMSON,

Under-Secy. to the Govt. of India.

Military Department.

Fort William, 4th April 1859.

No. 450 *of* 1859.—The following Notifications from the Foreign Department are published in General Orders :—

No. 1405.—*The* 31*st March* 1859.—His Excellency the Governor General in Council is pleased to grant to Major R. H. Keatinge, Officiating Political Assistant in Nimar and Political Agent in Western Malwa, the usual leave from the 16th instant, the date on which he made over charge of the Nimar Agency Office to Mr. S. J. Naher, Deputy Collector in Nimar, to proceed to Bombay, preparatory to applying for further leave to England, on Medical Certificate.

No. 1406.—Major R. R. W. Ellis, Political Assistant for Bundlecund, has obtained leave of absence for eight weeks, from the date on which he may avail himself of the same, preparatory to applying for further leave to Europe on Medical Certificate.

No. 1408.—The Governor General in Council is pleased to appoint Assistant Surgeon C. Mathias, of the Meenah Corps at Deolee, to the Medical charge of the Ulwar Political Agency.

Doctor Mathias joined his appointment on the 13th ultimo.

No. 451 *of* 1859.—The following Notification issued by the Hon'ble the Lieutenant-Governor of Bengal, is published in General Orders. :—

The 24*th March* 1859.—Assistant Surgeon J. M. Coates to be Civil Assistant Surgeon of Chumparun.

No. 452 *of* 1859.—The following Notification by the Government, North-Western Provinces, is published in General Orders :—

No. 822.—*The* 26*th March* 1859.—Captain A. H. Ternan, Deputy Commissioner of Jaloun, for eight weeks, under the Rules applicable to Military Officers on Staff employ, from 20th April, or any subsequent date on which he may avail himself of the leave, preparatory to applying for fifteen months' leave to England, on Medical Certificate.

No. 453 *of* 1859.—The following Notification by the Government of the Punjaub, is published in General Orders :—

No 602.—*The* 22*nd March* 1859.—Captain J. Crofton, Bengal Engineers, Superintendent Baree Doab Canal, has obtained eight weeks' leave from the 15th April 1859, preparatory to applying for Furlough to Europe, on Medical Certificate.

No. 454 *of* 1859.—The following Notifications from the Public Works Department, are published in General Orders :—

No. 73.—*The* 26*th March* 1859.—Lieutenant A. C. Padday, of Engineers, placed at the disposal of the Public Works Department in G. O. G. G., No. 413, of the 25th instant, is appointed a Probationary Assistant Engineer and attached to the Punjab.

No. 74.—*The* 28*th March* 1859.—Lieutenant G. Swinton, of Engineers, Probationary Assistant Engineer, is transferred from the Barrackpoor to the Ramghur Division.

Lieutenant J. M. Heywood, of Engineers, Probationary Assistant Engineer, is transferred from the 2nd Division Grand Trunk Road to the Barrackpoor Division.

Mr. W. Barnfather, Probationary Assistant Engineer, is transferred from the Barrackpoor Division to the Ganges and Darjeeling Road.

Lieutenant C. N. Judge, of Engineers, Assistant Engineer 2nd Class, and Lieutenant R. C. Danbuz, of Engineers, Probationary Assistant Engineer, are posted to the 2nd Division Grand Trunk Road.

No. 455 *of* 1859.—The under-mentioned men who were pronounced by the Invaliding Committee to be unfit for further duty, and recommended to be sent to Europe, are admitted to Pension as specified opposite to their respective names, under the provisions of General Order of the 5th February 1820, with permission to reside in India, subject to

the confirmation of the Right Hon'ble the Secretary of State:—

Serjeant Samuel Pritchard, of the Department Public Works ...	Equivalent to 1 shilling per diem.
Gunner Patrick Rourk, of the 3rd Company 6th Battalion Artillery ...	Equivalent to 9 pence per diem.

No. 456 *of* 1859.—Captain A. L. Nicholson, of the 64th Native Infantry, Officiating Sub-Assistant Commissary General, is allowed leave of absence, from the 15th April to the 15th May 1859, to visit the Presidency preparatory to applying for Furlough.

No. 457 *of* 1859.—Captain Frederick Octavius Salusbury, of the 1st European Bengal Fusiliers, is permitted to proceed to Europe on private affairs under the old Regulations, for the residue of the Furlough on the same account granted to him in Government General Order No. 271, of the 17th February 1857.

Fort William, the 5th April 1859.

No. 458 *of* 1859.—With reference to Government General Order No. 193, dated 5th October 1836, His Excellency the Governor General in Council is pleased to direct, that the following Military Letter from the Right Hon'ble the Secretary of State for India, No. 58, dated 16th February 1859, be published in General Orders:—

Military. No. 58.

To His Excellency the Right Hon'ble the Governor General of India in Council.

My Lord,

Great difficulty having been experienced in dealing with claims advanced by Officers of short periods of service to retire on half pay under the clause of the Retiring Regulations established by the late Court of Directors of the East India Company, by their Despatch to the Governor General of India, dated 11th May 1836, No. 3, as quoted in the margin, I have resolved with the concurrence of the Council of India to recommend to Her Majesty the substitution of the following modified Rule, which Her Majesty has been pleased to sanction:—

"Officers who are compelled to quit "the service by wounds received in "action or by ill health contracted "on duty after three years' service "in India, are permitted to retire on "the half pay of their Rank, viz:— "2nd Lieutenants, Cornets or "Ensigns 3s. a day, Lieutenants 4s."

"Officers on producing the prescribed Medical "Certificates, countersigned by the Commanding "Officer, that they are compelled to quit the ser-"vice by wounds received in action, or by ill-health, "contracted on active service, or on Detachment "or out-post, or any Military duty in notoriously "unhealthy localities, after three years' service in "India, are permitted to retire on the half pay "of their Rank."

I have, &c.,
(Signed) Stanley.

India Office,
London, 16th February 1859.

No. 459 of 1859.—Major William Henry Rickards, of the 14th Regiment Native Infantry, Political Agent in Bhopal, is permitted to retire from the Service on the Pension of a Colonel, from the date of his departure from Bombay.

No. 460 *of* 1859.—The following arrangements will have effect consequent on the re-organization of the Pay Office at Cawnpore, and the Establishment of a Divisional Pay Office at Lucknow:—

Officers and Troops at all Stations at present comprised within the Cawnpore Circle, excepting Mhow, which is transferred to the Benares Circle, will continue to be paid from the Cawnpore Pay Office.

All Officers and Troops serving in the Province of Oude will be paid from the new Lucknow Pay Office.

No. 461 *of* 1859.—Her Majesty has been pleased to appoint the under-mentioned gentlemen to be Cadets for the Cavalry in Her Majesty's Indian Military Forces at the Presidency of Bengal. They are accordingly admitted into the Service and promoted to the rank of Cornet, leaving the dates of their Commissions for future adjustment:—

	Date of arrival at Fort William.
Cavalry.	
Mr. Clement Edward Benthall „ Arthur William Roberts, ...	1st April 1859.

No. 462 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on leave of absence, on Sick Certificate:—

Lieutenant Charles Combe, of the 3rd Regiment Bombay Light Cavalry.	For eighteen months, under the new Regulations.

No. 463 *of* 1859.—The services of Sub-Assistant Surgeon J. Sheetz, attached to Alexander's Horse, are placed temporarily at the disposal of the Hon'ble the Lieutenant-Governor, North-Western Provinces.

No. 464 *of* 1859.—The under-mentioned Officers are permitted to proceed to Europe, on Furlough on private affairs:—

Captain William Charles Clifton, of the 67th Regiment Native Infantry ...	For three years, under the old Regulations.
Lieutenant Frederick William Graham, of the 11th Regiment Native Infantry ...	For two years, under the new Regulations.

No. 465 *of* 1859.—Assistant Surgeon F. Carter, of the Medical Department, is allowed leave of absence for two months, from the 1st February 1859, or from such date as he may avail himself of it, to visit Bombay preparatory to applying for leave of absence, on Sick Certificate to Europe, under the new Regulations.

No. 466 *of* 1859.—The under-mentioned Officers have returned to duty on this Establishment, without prejudice to their rank:—

	Date of arrival at Fort William.
Lieutenant Colonel and Brevet Colonel James Matthie, 21st Native Infantry. Lieutenant Gavin Dring Crawfurd, 18th Native Infantry. Lieutenant Robert Dallas Campbell, 63rd Native Infantry. Assistant Surgeon William Henry Kirton, of the Medical Department.	1st April 1859.

No. 467 *of* 1859.—Lieutenant E. S. Jackson, Sub-Assistant Stud Department, in charge of the Buxar Depôt is allowed leave of absence from the 20th March to the 20th May 1859, to visit the Presidency, preparatory to applying for leave of absence, on Sick Certificate to Europe, under the new Regulations.

No. 468 *of* 1859.—The under-mentioned Officer is promoted to the rank of Captain by Brevet, from the date expressed opposite to his name:—

24th Regiment of Native Infantry.

Lieutenant Brooking Soady ... 1st April 1859.

No. 469 *of* 1859.—The under-mentioned Officers are permitted to proceed to Europe, on leave of absence, on Sick Certificate:—

Assistant Surgeon James Arthur Sewell, M. D., of the Medical Department ...	For fifteen months, under the new Regulations.
Deputy Assistant Commissary John Brooke, 1st Class Sub-Engineer, Department Public Works ...	For fifteen months, under the new Regulations.

No 470 *of* 1859.—Her Majesty has been pleased to appoint the under-mentioned gentlemen to be Cadets for the Infantry in Her Majesty's Indian Military Forces at the Presidency of Bengal. They are accordingly admitted into the Service, and promoted to the rank of Ensign, leaving the dates of their Commissions for future adjustment:—

	Date of arrival at Fort William.
Infantry.	
Mr. Edward Maximiliam Bethune	1st April 1859.
Mr. Hugh Wilson Williams ...	
Mr. Adam Wilson Graham ...	
Mr. Astell Harrison ...	

No 471 *of* 1859.—Captain J. A. Law, of the 66th or Goorka Regiment, Sub-Assistant Commissary General, is allowed leave of absence, from the 1st April to the 15th June 1859, to visit the Presidency, preparatory to applying for permission to proceed to Europe on urgent private affairs.

No. 472 *of* 1859.—The under-mentioned Officer is permitted to proceed to Europe, on leave of absence, on Sick Certificate:—

Assistant Surgeon Thomas Anderson, M. D., Garrison Assistant Surgeon, Fort William	For fifteen months, under the new Regulations.

R. H. J. Birch, *Major-General,*
Secy. to the Govt. of India.

Public Works Department.

No. 76.

General.—Establishments.

The 31st March 1859.

Appointment.—Corporal J. Brierly, of the Corps of Delhi Pioneers, whose services were placed at the disposal of the Public Works Department, in General Order, by the Commander-in-Chief, dated 21st October 1858, is appointed a Probationary Assistant Overseer and posted to Oudh, with effect from the date on which he commenced his duties.

No. 77.

The 1st April 1859.

Notification.—Mr. C. Sinclair, Overseer in Oudh, is dismissed from the Public Works Department.

No. 78.

The 2nd April 1859.

Leave of Absence.—The leave of absence granted to 2nd Lieutenant H. A. L. Carnegie, of Engineers, in Notification No. 70, of the 24th ultimo, is preparatory to applying for six months' leave to Europe on urgent private affairs, and not for the purpose of resigning the Service.

No. 79.

The 4th April 1859.

Appointment.—Mr. E. Fitzgerald is appointed temporarily an Assistant Overseer in the Department of Public Works, Oudh, with effect from the 9th March 1859.

No. 80.

Notification.—Overseer Sergeant R. Phillips, of the Bengal Artillery, attached to the Lower Sirhind Division, is dismissed from the Public Works Department, and will be remanded to Military duty.

No. 81.

The 5th April 1859.

Leave of Absence.—Major R. Strachey, of Engineers, Consulting Engineer to the Government of India, Railway Department, is allowed privilege leave for six weeks, with effect from the departure of the next Mail Steamer for Galle.

Appointment.—Captain C. J. Hodgson, of Engineers, Deputy Consulting Engineer to the Government of India, Railway Department, will officiate as Consulting Engineer during the absence of Major Strachey.

No. 82.

Postings and Transfers.—Captain J. T. N. O'Brien, Assistant Engineer, 1st Class, is posted to the 1st Division, Lahore and Peshawur Road, as Officiating Executive Engineer.

Captain C. Pollard, Executive Engineer 2nd Class, is transferred from the 1st Division, Lahore and Peshawur Road, to the amalgamated Peshawur and Nowshera Division.

Captain H. Hyde, Executive Engineer, 1st Class, is transferred from the Peshawur to the Lahore Division.

Captain J. J. O'Bryen, of the 16th Regiment Native Infantry, now in temporary charge of the Lahore Division, is transferred to the charge of Umritsur and Govindgiur, subordinate to the Executive Engineer, Lahore, as a temporary arrangement.

Mr. N. G. Steele, Executive Engineer, 4th Class, is to take charge of the 9th Division Grand Trunk Road, and the Umritsur Drainage Works.

No. 83.

Notification.—The appointment of Mr. E. Swetenham, late 1st Class Assistant Engineer, to officiate as Executive Engineer of the 3rd Division, Baree Doab Canal, from the 13th March to the 12th April 1856, is sanctioned respectively.

H. Yule, *Lieut.-Col.,*
Secy. to the Govt. of India.

Orders by the Lieutenant-Governor of Bengal.

No. 2204.

APPOINTMENT.—*The 1st April* 1859.—Mr. E. O. White to be a Lieutenant in the 10th Bengal Police Battalion.

LEAVE OF ABSENCE.—*The 29th March* 1859.—Mr. G. K. Poole, Civil Assistant Surgeon of Rungpore, for two months, under the Financial Notification of the 29th October 1857, making over charge of the Medical duties of the Station to the Native Doctor, Fyz Mahomed.

Mr. E. M. Reily, Deputy Collector of Cachar, from the 24th November to the 27th December last, on Medical Certificate, under Clause 2, Section V. of the Uncovenanted Absentee Rules.

The 30th March 1859.—Lieutenant J. Robertson, Second in Command 6th Bengal Police Battalion, from the 1st proximo to the 15th May next, under Section VII. of the revised Uncovenanted Absentee Rules.

The 31st March 1859.—Baboo Doorgapersaud Ghose, Additional Principal Sudder Ameen of Chittagong, for two months, on Medical Certificate, under Clause 2, Section V. of the Uncovenanted Absentee Rules, in extension of the leave granted to him on the 27th January last.

NOTIFICATIONS.—*The 4th March* 1859.—The Sub-Division of Cox's Bazar in Chittagong will in future consist of Thannahs Chuckeriah Ramoo and Tecknauf, with their subordinate Pharees of Mascal and Kootubdea.

The 23rd March 1859.—Mr. E. H. Lushington assumed charge of the Office of the Junior Secretary to the Government of Bengal on this day.

A. R. YOUNG,
Secy. to the Govt. of Bengal.

Orders by the Lieutenant-Governor, North-Western Provinces.

No. 903.

Allahabad, the 30th March 1859.

Appointments.—Captain J. N. H. McLean to officiate as Deputy Commissioner 1st Class of Oraie, during the absence on leave of Captain A. H. Ternan, or until further orders.

Captain F. A. Fenton to officiate as Deputy Commissioner of 2nd Class of Baitool.

Lieutenant W. Tyler to officiate as Deputy Commissioner 2nd Class of Chundeyree.

No. 931.

The 31st March 1859.

Leave of Absence.—Mr. Fendall Thompson, Officiating Magistrate and Collector of Allahabad, for eight weeks, from the 1st proximo, to enable him to proceed to Calcutta, preparatory to availing himself of the unexpired portion of his Furlough.

No. 933.

Appointments.—Mr. William Ralph Benson temporarily to officiate as Magistrate and Collector of Allahabad, from the date on which he may receive charge from Mr. Thompson.

No. 945.

The 1st April 1859.

Captain C. Warde, 68th Regiment Native Infantry, to officiate as Cantonment Joint Magistrate and Superintendent of the Abkarry Mehal at Agra, during the absence on leave of Lieutenant W. Smith, or until further orders.

No. 948.

Captain R. Ouseley, 34th Regiment Native Infantry, to be Cantonment Joint Magistrate and Superintendent of the Abkarry Mehal at Saugor.

No. 951.

Leave of Absence.—Mr. Elliot Macnaghten, Assistant Magistrate and Collector of Mirzapoor, for six months, on private affairs, to England, from the 25th April, or such subsequent date as he may avail himself of the leave.

No. 957.

Mr. Alfred Lisle March Phillipps, for six months, under Section XIV. of the Absentee Rules, to visit England, on urgent private affairs, with six weeks' preparatory leave, to reach the port of embarkation, from the date on which he may make over charge of his Office.

No. 960.

Appointments.—Mr. George Boles Pasley to officiate as Magistrate and Collector of Agra, from the date on which he may receive charge from Mr. Phillipps, or until further orders.

No. 978.

Allahabad, the 2nd April 1859.

Captain A. G. Davidson to officiate as Deputy Commissioner of Ajmere and Mhairwarra.

Lieutenant T. Pierce to officiate as 1st Assistant Commissioner of Ajmere.

Nohbut Roy to officiate as 2nd Assistant Commissioner of Ajmere.

The above appointments to have effect from the 22nd February last, the date on which Captain J. Brooke, Deputy Commissioner and Political Agent left for Jodhpoor and Serohie.

No. 983.

Leave of Absence.—Assistant Surgeon H. M. Cannon, Superintendent of the Meerut Central Prison, for one month, under the Rules applicable to Military Officers in Staff employ, from the 15th April next, to proceed to the Presidency, preparatory to applying for leave to England on Medical Certificate.

Appointment.—Assistant Surgeon J. C. Corbyn, to officiate as Superintendent of the Meerut Central Prison, during the absence on leave of Dr. Cannon, or until further orders.

No. 989.

Notification.—Baboo Kedarnath, Moonsiff of the City of Jubbulpoor, is vested with the powers of an Assistant Magistrate, also with authority to receive petitions under Act X. of 1851, and administer stripes under Act XI. of 1858.

By Order of the Hon'ble the Lieutenant-Governor, North-Western Provinces,

E. C. BAYLEY,
Offg. Secy to Govt., N. W. P.

No. 328.

Allahabad, the 30th March 1859.

Appointment.—Zein-oolab-deen to be a Deputy Collector and Deputy Magistrate of Khundwah, in Nimar.

No. 535.

The 31st March 1859.

Leave of Absence.—Captain G. Baillie, Deputy Superintendent Roorkee Workshops, for one month, from the 15th proximo, to visit Calcutta, preparatory to applying for general leave, on private affairs to England.

By Order of the Hon'ble the Lieutenant-Governor, North-Western Provinces,

F. B. OUTRAM,
Offg. Under-Secy. to Govt., N. W. P.

No. 118 A.

Allahabad, the 29th March 1859.

Leave of Absence.—Lieutenant N. Barton, Commandant of the Mundlah District Police, preparatory leave to the Presidency, subject to the conditions of the G. O. Government of India, Financial Department, No. 157, dated the 14th January 1859, from such date as he may avail himself of it.

No. 153.

The 30th March 1859.

Appointments.—Captain J. S. D. Tulloch, 17th Regiment Native Infantry, to be Second in Command of the Jhansie Divisional Police Battalion, *vice* Lieutenant Owen, proceeded to Europe, on Sick Certificate.

No. 160.

The 2nd April 1859.

Lieutenant R. Cadell, 20th Regiment Native Infantry, to be Commandant of the District Police at Mundlah, *vice* Captain Barton, proceeding to Europe. Lieutenant Cadell to continue to officiate as District Commandant at Cawnpore, until the return of Captain W. Thompson, or until further orders.

No. 161.

Notification.—The services of Lieutenant T. N. Baker, Second in Command of the 2nd Sikh Police Corps, have this day been placed at the disposal of the Government of India, Military Department.

By Order of the Hon'ble the Lieutenant-Governor, North-Western Provinces,

G. W. WILLIAMS, *Lieut.-Colonel,*
Military Secy. to Govt., N. W. P.

No. 954.

Allahabad, the 1st April 1859.

Notification.—The leave of absence, for three months, granted to Mr. George Dundee Turnbull, Civil and Sessions Judge of Meerut, under Section XII. of the amended Absentee Rules, in O. S., of the 23rd February, is cancelled at that Officer's own request.

By Order of the Hon'ble the Lieutenant-Governor, North-Western Provinces,

J. D. SANDFORD,
Offg Asst. Secy. to Govt., N. W. P.

Orders by the Lieutenant-Governor, Punjab Provinces.

General Department,

No. 672, dated 24th March 1859.

Leave.—Mr. G. Thomson, Extra Assistant of Leia, has obtained one month's leave under Section VII. of the Uncovenanted Absentee Rules, from the date on which he may avail himself thereof.

No. 682, dated 25th March 1859.

Naik Ram, Extra Assistant of Goorgaon, has obtained nine months' leave on Medical Certificate, from the date of his availing himself thereof. Imdad Alee, Revenue Serishtadar of the Deputy Commissioner's Office, Goorgaon, will officiate as Extra Assistant during the absence of Naik Ram.

Nos. 675-9, dated 24th March 1859.

Appointments.—Mr. R. F. Saunders, Assistant Commissioner, to officiate as Deputy Commissioner of Kangra.

Major R. G. Taylor, Deputy Commissioner of Kangra, to officiate as Commissioner of Leia.

Captain H. R. James, Officiating Commissioner of Leia, to officiate as Commissioner of Peshawur.

Public Works Department,

No. 619, dated 25th March 1859.

Hukeem Rae is appointed a Sub-Overseer, with effect from the 10th January 1859, and posted to the Lahore Division of Public Works.

By Order of the Hon'ble the Lieutenant-Governor, Punjab Provinces,

R. H. DAVIES,
Secy. to Govt., Punjab Provinces.

Opium Notification.

NOTICE is hereby given, that the fourth Sale of Opium, the provision of 1857-58, will be held at the Exchange Hall, on Thursday, the 14th of April 1859, at 11 A. M., and will comprise 2,260 chests, *viz* :—

Behar Opium	1,915
Benares Ditto	345
Total Chests,...	2,260

2. The general conditions of the Sale now advertized will be the same as usual. They may be ascertained by reference to the Notification issued on the 1st December 1858, and published in the *Government* and *Exchange Gazettes*, or on application at the Office of the Board of Revenue.

3. The latest dates for deposit and clearance will be the 19th and 29th April 1859, respectively, that is to say, no Sub-Treasurer's Receipts, Company's Paper or other Public Securities that may be tendered for deposit in redemption of Promissory Notes given by purchasers at the sale will be received after 4 P. M. of Tuesday the 19th April 1859, and no Treasury Receipts in full payment of lots will be accepted after 4 P. M. of Friday, the 29th April 1859.

4. In addition to the quantity above advertized for Sale, the following quantities more or less of Behar and Benares Opium of 1857-58, will be brought to Sale in the present year, on or about the dates specified below. The Board however reserve to themselves the right of altering these dates should circumstances render it expedient to do so.

	Behar about Chests.	Benares about Chests.	Total about Chests.
On or about Monday, 9th May 1859 ..	1915	345	2260
Do. Monday, 13th June ..	1915	345	2260
Do. Thursday, 14th July ..	1915	345	2260
Do. Wednesday, 10th August ..	1915	345	2260
Do. Friday, 9th September ..	1915	345	2260
Do. Friday, 14th October ..	1915	345	2260
Do. Monday, 7th November ..	1915	345	2260
Do. Monday, 5th December ..	1884	379	2313
	15339	2794	18133

By Order of the Board of Revenue,

E. T. TREVOR,
Secretary.

FORT WILLIAM,
The 28th March 1859.

No. 257.

Notice.

TENDERS for the transportation of Salt from the Central and Southern Agencies of Orissa, to the Government Golahs at Sulkea, will be received at this Office until 2 P. M., of the 17th of May next.

2. The Tenders must be drawn up according to a form which may be obtained on application at this Office.

3. Distinct contracts must be entered into for the removal of the Salt in each of the three following localities, to wit Hunsooah (in Central Cuttack) and the Ustrung Aurungs and the Chilka Lake Aurungs, in the Southern or Pooree Agency.

4. Parties tendering must satisfy the Board of Revenue and the Commissioner of Cuttack, that they possess the means of conveying the full quantity of Salt tendered for, and with this object a list of the vessels intended to be employed must accompany each Tender.

5. The quantity of Salt to be shipped at the Hunsooah Golahs will probably not exceed 1,00,000 maunds in each year; that from the Ustrungs is roughly estimated at 80,000 maunds for the ensuing season, and that from the Chilka Aurungs at maunds 3,20,000. The tenderer may apply for the whole quantity for which freight is required at each locality, or for any part not less than a quarter of such quantity.

6. Contractors must engage to ship the Salt allotted to them, during the period between the last spring tides of October and the end of February.

7. Parties whose tenders are accepted will be required to make a deposit of Government Promissory Notes, or to furnish other unexceptionable Security for the performance of their contracts.

8. The Board reserve to themselves the right of rejecting any Tender without assigning a reason.

By order of the Board of Revenue,

E. T. TREVOR,
Secretary.

FORT WILLIAM,
The 15th March 1859.

Notification No. 40.

Baboo Anandaram Phookun, Sub-Assistant Commissioner, received charge of the Treasury at Nowgong, Assam, on the 21st ultimo.

Mr. Uncovenanted Deputy Collector J. Johnson received charge of the Treasury of Monghyr, on the 28th ultimo.

R. P. HARRISON,
Offg. Accti. to the Govt. of Bengal.

FORT WILLIAM;
Office of Accts., Govt. of Bengal,
The 4th April 1859.

CALCUTTA UNIVERSITY.

ENTRANCE EXAMINATION, MARCH 1859.

PASSED CANDIDATES ALPHABETICALLY ARRANGED.

First Division.

	Ajodhya Persad	...	Ajmere School.
	Ali Hafiz	..	Muddrissa College.
	Anundloll Sen	...	Presidency College.
	Abdool Qusdir	...	Sarun School.
	Anund Chunder Sen	..	Teacher, Furreedpore School.
	Boikuntnoth Sen	...	Berhampore College.
	Baneymadhub Bose	...	Colootolah Branch School.
	Bhobany Churn Dutt	...	Hindoo School.
	Bacharam Chatterjee	...	Oriental Seminary.
10	Benode Chund Mookerjee	...	Ootterparah School.
	Bhoobun Chunder Banerjee	...	Presidency College.
	Brojokissore Bose	...	Teacher, Bhaugulpore School.
	Bhugwan Chunder Bose	...	7th Master, Dacca College.
	Bhoobun Mohun Raha	...	4th Master, Burrisaul School.
	Chunder Mohun Ghose	...	Colootolah Branch School.
	Chunder Nath Ghose	...	Ditto. Ditto.
	Chunder Coomar Dutt	...	Dacca College.
	Crump, H. W.	...	Doveton College.
	Chunder Shekhur Mookerjee	...	Hooghly College.
20	Cally Doss Chatterjee	...	Presidency College.
	Calli Mohun Chowdry	...	Ditto. Ditto.
	Callica Doss Dutt	...	Ditto. Ditto.
	Cashee Prosonno Mitter	...	Ditto. Ditto.
	Chunder Mohun Banerjee	...	2nd Master, Bhaugulpore School.
	Chunder Cant Sein	...	Head Master, Rungpore Training School.
	Coutto, J. R.	...	Private Student.
	Denonath Pyne	...	Hindoo School.
	Doyal Chunder Shome	...	Hooghly College.
	Denonath Mookerjee	...	Teacher, Jonye School.
30	Deno Nath Bose	...	Presidency College.
	Ethmam Hosain	...	Muddrissa College.
	Gordon, B. D.	...	Doveton College.
	Greesh Chunder Mitter	...	Hindoo School.
	Gopeenath Bannerjee	...	Hooghly College.
	Grish Chunder Chowdry	...	Ootterparah School.
	Gopalchunder Goopto	...	Sanskrit College.
	Hyder Hosain	...	Muddrissa College.
	Hungsheshur Mookerjee	...	Puruliah School.
	Ishree Persad	...	Doveton College.
40	Isher Chunder Chuckerbutty	...	Calcutta Free Church Institution.
	Jai Gopal Sing	...	Gya School.
	Juddoonath Chatterjee	...	Presidency College.
	Jadub Chunder Day	...	Ditto. Ditto.
	Juddoonath Mookerjee	...	Ditto. Ditto.
	Khetter Mohun Bose	...	Civil Engineering College.
	Kisto Mohun Dey	...	Chinsurah Grammar School.
	Kisto Chunder Chatterjee	...	Colootolah Branch School.
	Kadernath Dutt	...	Ditto. Ditto.
	Kally Prosonno Mookerjee	...	Hooghly Collegiate School.
50	Koylash Chunder Mookerjee	...	Kishnagur Collegiate School.
	Kissory Mohun Sen	...	Seal's College.
	Kesava Deva Sandylia	...	Benares College.
	Mohendronath Ghose	...	Bansbaria Free Church Branch.
	Mendes, L. A.	...	Doveton College.
	Mudden Mohun Bysack	...	Hindoo School.
	Mahomed Diem	...	Muddrissa College.
	Nilmoney Kooar	...	Hooghly College.

	Nobin Kissen Mookerjee		Ootterparah School.
	Nobin Chunder Gangooly		Presidency College.
60	Nobinkissen Mookerjee		Ditto. Ditto.
	Nobin Chunder Dey		Teacher, Burdwan Rajah's School.
	Nilmoney Dey		Private Student.
	Omernoth Bose		Colootolah Branch School.
	Okhilnoth Roy	...	Hindoo School.
	Omirtololl Paul	...	Howrah School.
	Odeutoolah	...	Mudrissa College.
	Obenash Chunder Ghose	...	Oriental Seminary.
	Opendro Chunder Bose	...	Presidency College.
	Omirtololl Chatterjee	...	Ditto. Ditto.
70	Otool Chunder Mookerjee	...	Ditto. Ditto.
	Protap Chunder Dey	...	Berhampore College.
	Prankristo Doss	...	Chittagong School.
	Poornando Mitter	...	Colootolah Branch School.
	Pitamber Dey	...	Presidency College.
	Parbutty Churn Ghose	...	Ditto. Ditto.
	Pearymohun Mookerjee	...	Ditto. Ditto.
	Poorno Chunder Sircar	...	Serampore College.
	Peary Mohun Banerjee	...	4th Master, Baraset School.
	Prosonno Chunder Roy	...	Teacher, Sanscrit College.
80	Prosonno Budana Mitter	...	Benares College.
	Rohim Buksh	...	Bansbaria Free Church Branch School.
	Rajkrishna Mitter	...	Colootolah Branch School.
	Radha Govind Dutt	...	Hooghly College.
	Roby Chunder Gangooly	...	Kishnagur Collegiate School.
	Romesh Chunder Mitter	...	Presidency College.
	Raj Kissen Pramanick	...	Ditto. Ditto.
	Rajcoomar Roy	...	Head Master, Barrackpore School.
	Shosheebhoosun Sen	...	Burrisaul School.
	Shosheebhoosun Sen	...	Colootollah Branch School.
90	Simon, J. P. A.	...	Dacca Collegiate School.
	Sreekunt Mullick	...	Hooghly Branch School.
	Stevens, G.	...	La Martinere College.
	Soorjee Coomar Chatterjee	...	Presidency College.
	Shama Churn Gangooly	...	Ditto. Ditto.
	Suryanarain Sing	...	Ditto. Ditto.
	Surrut Chunder Doss	...	Teacher, Furreedpore School.
	Shittanath Mookerjee	...	Head Master, Chuckdegee Aided School.
	Sadhoo Chunder Seal	...	13th Master, Dacca College.
	Tarabelash Mitter	...	Berhampore College.
100	Troyluckhonath Mitter	...	Ootterparah School.
	Tarucknath Dutt	...	Presidency College.
	Tarabur Mitter	...	Ditto. Ditto.
	Taraprosonno Mookerjee	...	Ditto. Ditto.
	Tribhowun Sing	...	2nd Master, Gya School.
	Umbica Churn Sircar	...	Librarian, Howrah School.
	Wooma Canth Doss	...	Dacca Collegiate School.
107	Woomesh Chunder Sircar	...	Presidency College.

Second Division.

	Anundloll Bose	...	Bhaugulpore School.
	Anund Mohun Bose	...	Burrisaul School.
	Augustine, J.	...	Doveton College.
	Ashootosh Ghose	...	Hooghly Collegiate School.
	Aughore Nath Bannerjee	...	Jessore School.
	Aughore Nath Dutt	...	Midnapore School.
	Aunonto Ram Ghose	...	Colootolah Branch School.
	Beharyloll Gangooly	...	Bally Aided School.
	Bholanath Doss	...	Baraset School.
10	Brojobullub Mitter	...	Bancoorah School.
	Benwarry Sen	...	Beerbhoom School.
	Bholanath Bose	...	Bishop's College.
	Burrodaprosad Chatterjee	...	Colootolah Branch School.
	Byrne V. P.	...	Doveton College.
	Bulloram Mullick	...	Chinsurah Free Church Institution.
	Beharryloll Bhadoory	...	Hindoo School.
	Beernurring Dey	...	Ditto. Ditto.
	Benodebeharry Dey	...	Hooghly Collegiate School.
	Bhoobun Mohun Gupto	...	Ditto. Ditto.
20	Brojonath Shaw	...	Ditto. Ditto.

	Behareeloll Mitter	Howrah School.
	Brojololl Bannerjee	Jonye School.
	Bhooputty Chatterjee	Kishnagur Collegiate School.
	Bedhoobuddun Bannerjee	Konemuggur Aided School.
	Bully Chand Sen	Medical College.
	Bama Churn Palit	Mymensing School.
	Behareeloll Mookerjee	Ootterparah School.
	Bunnomally Mullick	Presidency College.
	Bissesur Chatterjee	Russapuglah School.
30	Baney Madhub Mozoomdar	Private Student.
	Bunkoobehary Seal	Private Student.
	Coloodaprosad Sen	Beerbhoom School.
	Chunder Narain Sing	Ditto. Ditto.
	Chuckerdhur Pershad	Bhaugulpore School.
	Cofil Ooddeen	General Assembly's Institution.
	Chooney Lall Doss	Hindoo School.
	Chunder Shekhur Gangooly	Hooghly Collegiate School.
	Chunderkant Mitter	Jessore School.
	Chundee Churn Bannerjee	Oriental Seminary.
40	Chunder Shekhur Coondoo	Private Student.
	Dhonesh Chunder Roy	Colootolah Branch School.
	Denonath Bannerjee	Culna Free Church Branch School.
	Denonath Dutt	Ex-Student Furreedpore School.
	Debendro Loll Bose	Hooghly Collegiate School.
	Dukhenaprosad Bose	Takey Aided School.
	Doorgaloss Dustadar	Chittagong School.
	Denonath Bannerjee	Culna Free Church Branch School.
	Eshan Chunder Kooar	Hooghly College.
	Gopal Chunder Paul	Bally Aided School.
50	Guddadhur Gorrain	Beerbhoom School.
	Gopal Chunder Paray	Bogra School.
	Gooroonath Sen	Burrisaul School.
	Gossie Doss Doss	Burdwan Rajah's School.
	Golokemohun Ghose	Dacca Collegiate School.
	Gobind Chunder Bose	Chinsurah Free Church Institution.
	Grish Chunder Dutt	General Assembly's Institution.
	Gopal Chunder Dutt	Hindoo School.
	Grish Chunder Mozoomdar	Ditto. Ditto.
	Grish Chunder Mitter	Howrah School.
60	Gopal Chunder Lahory	Medical College.
	Goorooprosad Sen	Mymensing School.
	Grish Chunder Bose	Presidency College.
	Hurry Churn Bose	Alipore School.
	Hurry Mohun Bose	Baraset School.
	Hurrish Chunder Chowdry	Berhampore College.
	Hurry Mohun Lahory	Bogra School.
	Hurrish Chunder Roy	Burdwan Rajah's School.
	Hemendro Nath Tagore	Doveton College.
	Hem Chunder Ghose	General Assembly's Institution.
70	Hem Chunder Chatterjee	Hindoo School.
	Heraloll Ghose	Ditto. Ditto.
	Heraloll Mookerjee	Hooghly Branch School
	Hurry Mohun Bannerjee	Kishnagur Collegiate School.
	Hodgkinson, E.	Medical College.
	Humeeodoodden Ahmed	Mymensing School.
	Hem Chunder Roy	Presidency College.
	Hurritarun Bhuttacharjee	Private Student.
	Ishen Chunder Sing	Colinga Branch School.
	Ishan Chunder Mookerjee	Chinsurah Free Church Institution.
80	Joggendronath Mookerjee	Baraset School.
	Janookyloll Roy	Beerbhoom School.
	Juggut Chunder Doss	Chittagong School.
	Jogesh Chunder Chowdry	Colootolah Branch School.
	Joyloll Doss	Hindoo School.
	Joy Gopal Mookerjee	Hooghly Collegiate School.
	Jogesh Chunder Bannerjee	Kishnagur Collegiate School.
	Juddoo Gopul Bose	Presidency College.
	Juddoonath Chatterjee	Serampore College.
	Koolodaprosad Mookerjee	Bancoorah School.
90	Kalliprosonno Mookerjee	Commillah School.
	Kader Nath Ghose	Colootolah Branch School.
	Keith J. N.	Colombo Academy.

	Kalliprosono Mookerjee	...	Hindoo School.
	Kjstobehary Mookerjee	...	Ditto. Ditto.
	Kader Nath Bannerjee	...	Hooghly College.
	Koylash Chunder Mookerjee	...	Ditto. Ditto.
	Khettor Mohun Roy	...	Hooghly Collegiate School.
	Kader Nath Chatterjee	...	Hooghly Branch School.
	Koraliprosonno Mookerjee	...	Ditto. Ditto.
100	Kader Nath Dutt	...	Howrah School.
	Kally Churn Ghosal	...	Ditto. Ditto.
	Kessub Loll Bose	...	Jessore School
	Kallyprosonno Mookerjee	...	Khamargachee Aided School.
	Kally Doss Bagchee	...	Kishnaghur Collegiate School.
	Kisno Chunder Chatterjee	...	Ditto. Ditto.
	Kader Nath Bannerjee Junior	...	Konenuggur Aided School.
	Kishnadhun Ghose	...	Ditto. Ditto.
	Kally Prosonno Gangoly	...	Ootterparah School.
	Khetter Chunder Chatterjee	...	Presidency College.
110	Kangali Churn Ghose	...	Presidency College.
	Koylash Chunder Ghose	...	Ditto. Ditto.
	Koonjobehary Chowdry	...	Russapuglah School.
	Kirkpatrick, C.	...	St. Paul's School.
	Kally Kissen Bannerjee	...	Baraset School.
	Lal Beharry Lahory	...	Beauleah School.
	Lubil, E. G.	...	Colombo Academy.
	Loos, Robert	...	Ditto. Ditto.
	Luckhenarain Lahory	...	Private Student.
	Muttyloll Goopto	...	Bansbaria Free Church Branch School.
120	Moor, Robert	...	Bishop's College.
	Mohesh Chunder Sircar	...	Colinga Branch School.
	Mohinee Mohun Burdhun	...	Commilla School.
	Modhoosuden Sen	...	Colootolah Branch School.
	Mothoornath Mookerjee	...	Hindoo School.
	Mutteeloll Bose	...	Hooghly Collegiate School.
	Mon Mohun Ghose	...	Kishnaguro Collegiate School.
	Modhoosudun Roy	...	Midnapore School.
	Mohendro Nath Roy	...	Presidency College.
	Muttiloll Pramanick	...	Ranaghat Aided School.
130	Moneyloll Sandel	...	St. aPaul's School.
	Mookundobullub Mojoomdar	...	Priv te Student.
	Mudoosuden Burmors	...	Teacher, Juggutbullobpore Aided School.
	Nilmadhub Bhuttacharjee	...	Barrackpore School.
	Nuffer Chunder Bhutto	...	Berhampore College.
	Nobin Chunder Mitter	...	Ditto Ditto.
	Nobin Chunder Sen	...	Ditto Ditto.
	Nilmoney Bose	...	Hindoo School.
	Nemy Churn Bysack	...	Ditto Ditto.
	Nilambur Bannerjee	...	Hooghly Collegiate School.
140	Nilcunt Mookerjee	...	Hooghly Branch School.
	Nundololl Ghose	...	Midnapore School.
	Nobin Chunder Pattuck	...	Oriental Seminary.
	Nakuleshur Bannerjee	...	Sanskrit College.
	Noyan Chunder Bose	...	Seal's College.
	Nobokissen Sen	...	Sylhet Mission School.
	Nuleet Chunder Sen	...	Private Student.
	Oomakanth Moytro	...	Beauleah School.
	Obhoy Kristo Dutt	...	Colinga Branch School.
	Ooma Churn Goopto	...	Dacca Collegiate School.
150	Omirtolall Bose	...	Hindoo School.
	Obenash Chunder Dey	...	Ditto Ditto.
	Openderlall Bose	...	Hooghly College.
	Ojoodhyalall Pal.	...	Midnapore School.
	Obhoy Coomar Bose	...	Oriental Seminary.
	Oottum Kishna Sircar	...	Presidency College.
	Pearylall Roy	...	Beerbhoom School.
	Promothnath Mookerjee	...	Bhaugulpore School.
	Prosunno Coomar Bose	...	Burrisaul School.
	Pearylall Goho	...	Dacca Collegiate School.
160	Poorno Chunder Banerjee	...	Hindoo School.
	Protap Chunder Dey	...	Ditto Ditto.
	Poorno Chunder Bose	...	Howrah School.
	Pearylall Ghose	...	Ootterparah School.
	Promotha Chunder Ganooly	...	Ranaghat Aided School.

	Procash Chunder Dutt	...	Sylhet School.
	Pro no Chunder Bhuttacharjee	...	Teacher, Ootterparah School.
	Punchanon Roy	...	Burrisaul School.
	Ramtaruck Muduck	...	Bansbaria Free Church Branch School.
	Rajnarain Chuckerbutty	...	Berhampore College.
170	Rakhal Chunder Sein	...	Ditto Ditto.
	Ram Gopal Tallapatra	...	Beauleah School.
	Romesh Chunder Bose	...	Colootolah Branch School.
	Romesh Chunder Ghose	...	Colootolah Branch School.
	Rakhal Chunder Seal	...	Ex-student Dacca College.
	Roheenee Coomar Bysack	...	Dacca Collegiate School.
	Roodro Chunder Mullick	...	Ditto ditto.
	Reedoynath Sircar	...	Ditto ditto.
	Rashbeharry Surma	...	Ditto ditto.
	Russickloll Mozoomdar	...	Calcutta Free Church Institution.
180	Rakhal Doss Bose	...	Hooghly Collegiate School.
	Rajcoomar Coondoo	...	Howrah School.
	Ramtaruck Roy	...	Paikparah School.
	Russickloll Banerjee	...	Presidency College.
	Ramtaruck Ghose	...	Seal's College.
	Radha Churn Mookerjee	...	Serampore College.
	Rajnarain Deb	...	Private Student.
	Romanoth Mookerjee	...	Private Student.
	Sarodaprosad Bannerjee	...	Baraset School.
	Saradaprosad Gangooly	...	Beerbhoom School.
190	Sreekrishna Mookerjee	...	Ditto ditto.
	Surbanund Doss	...	Burrisaul School.
	Surjeenarain Sing	...	Burdwan Rajah's School.
	Shib Chunder Aich	...	Colootolah Branch School.
	Shosheebhoosun Mookerjee	...	Ditto ditto.
	Shama Churn Mozoomdar	...	Ditto ditto.
	Suttynath Roy	...	Ditto ditto.
	Soorjo Coomar Dutt	...	Dacca College.
	Sorish Chunder Surma	...	Ditto ditto.
	Scott, G. L.	...	Doveton College.
200	Shib Chunder Pramanick	...	Hooghly Collegiate School.
	Soorjo Coomar Chatterjee	...	Hooghly Branch School.
	Sarodaprosad Bose	...	Jessore School.
	Shama Churn Ghose	...	Kishnogur College School.
	Sree Gopal Dutt	...	Kishnagur Mission School.
	Shama Churn Deb	...	Konenuggur Aided School.
	Shosheebhoosun Dutt	...	Mymensingh School.
	Shiboodass Bannerjee	...	Ooterparah School.
	Satcowry Mitter	...	Ditto ditto.
	Satcowry Chatterjee	...	Presidency College.
220	Shib Chunder Chatterjee	...	Ditto ditto.
	Suroop Chunder Bose	...	Purulia School.
	Shama Churn Mookerjee	...	Ranaghat Aided School.
	Shyama Churn Mookerjee	...	Sanskrit College.
	Sheoprosad Sing	...	Teacher, Gya School.
	Sham Loll Ghose	...	Private Student.
	Tarenee persaud	...	Bhaugulpore School.
	Troylucko Nath Chatterjee	...	Civil Engineering College.
	Taracant Bose	...	Hindoo School.
	Thakoor Doss Mookerjee	...	Ditto ditto.
220	Troylucko Nath Mitter	...	Hooghly Branch School.
	Tarapprosad Mitter	...	Jessore School.
	Tareenee Churn Bhadoory	...	Medical College.
	Troylukho Nath Roy	...	Private Student.
	Umbica Churn Sircar	...	Hooghly College.
	Umbica Churn Bannerjee	...	Kishnagure Collegiate School.
	Umbica Churn Gangooly	...	Ootterparah School.
	Vander Stratten, J. W.	...	Colombo Academy.
	Vandort, W. G.	...	Ditto ditto.
	Wood, Henry	...	Bishop's College.
230	Wooma Churn Ghose	...	Burrisaul School.
	Wright, Edmund A.	...	Doveton College.
	Woodoy Chand Neogy	...	Hindoo School.
233	Watts, E. R.	...	La Martiniere College.

By order of the Vice-Chancellor,

CALCUTTA UNIVERSITY,
The 4th April 1859.

H. Scott Smith, A. M.
Registrar.